

JEH:MO'B

January 19, 1931.

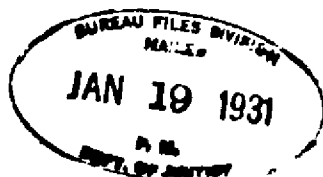
MEMORANDUM FOR MR. RATHAN.

Assistant Attorney General Dodds has expressed a desire to confer with Special Agent in Charge Dunn of our Chicago office relative to the investigation of the purchase of Post Offices in Indiana, the prosecution of which has recently been taken over by Mr. Jeffrey, the United States Attorney at Indianapolis. I told Mr. Dodds that I would have arrangements made to bring Mr. Dunn in to Washington as soon as possible but I did not believe it would be desirable to bring him in before the latter part of this week for the reason that I understood that the prosecution of Al Capone for contempt would be instituted in Chicago this morning, provided United States Attorney Johnson does not have some more of the more or less continuous postponements that have been permitted in this case.

I wish that you would keep in touch with this matter and, as soon as Mr. Dunn can come to Washington, order him here for conference with Mr. Dodds.

Very truly yours,

Director.



NOT RECORDED

69-180

62-22003

RECEIVED

JAN 22 1931

NATIONAL BUREAU OF INVESTIGATION

FEDERAL BUREAU OF INVESTIGATION

U.S. DEPARTMENT OF JUSTICE

WASHINGTON, D.C.

67-2

January 22, 1931.

Dear Sir:-

JAN 24 1971

On the 19th instant Federal Judge Wilkerson continued the matter indefinitely because of the crowded condition of his court calendar.

I conferred with Federal Judge Wilkerson on the 19th instant relative this matter and was advised by him that two important and lengthy civil matters have precedence on his calendar and that because of that fact it was not possible to proceed with the instant matter on the 19th instant. In this connection Federal Judge Wilkerson informed me that he has a definite understanding with the attorneys representing Defendant Capone that the instant case is subject to call on forty-eight hours notice at the first opportunity which may afford itself during the pendency of the two civil matters which have priority on the calendar.

I have endeavored to keep in touch with the situation from day to day in order that this office might be on notice as to the probable trial date. My latest advice, obtained this morning, is that Judge Wilkerson is now confined to his home by illness and that it is extremely doubtful if he will be able to visit his office during the present week. The Secretary of Judge Wilkerson tells me, even though the Judge is able to visit his office during the present week it is a certainty that he will not attempt to hear any matters whatsoever.

Send a copy to the a.g.

1/24/81 J.E.X.

cc Atty, Gen. 1/29/31

69-180-49

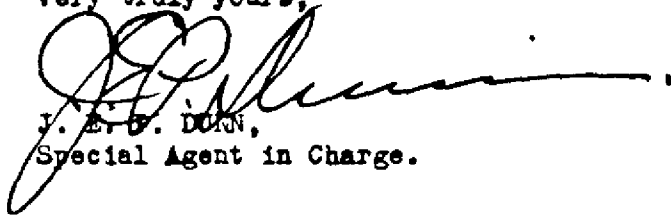
Mr. Nathan TFB

It appears certain, therefore, that this case cannot be called this week and it is apparently not possible at this time to ascertain within any degree of accuracy the date upon which it may be called, since it is probable that when Federal Judge Wilkerson is able to resume his duties the civil matters which have been held in abeyance will claim the major portion of his time over a considerable period.

In conference with Assistant to the Attorney General Froelich today, the latter expressed the opinion that there seems to be no possibility of the instant matter coming to trial within the next ten days and possibly not for a longer period.

I have effected arrangements whereby this office will be promptly informed of developments in this matter.

Very truly yours,



J. E. D. DOWN,
Special Agent in Charge.

JEPD-mk
69-19.

cc-Jacksonville.

WFB:MD
100-180-48

RECORDED

January 29, 1931

31 1931

MEMORANDUM FOR THE ATTORNEY GENERAL

As of probable interest to you in connection with the case involving ALPHONSE CAPONE - CONTEMPT OF COURT, Chicago, Illinois, I am attaching hereto copy of a letter received by me from the Special Agent in Charge of the Chicago office of the Bureau of Investigation.

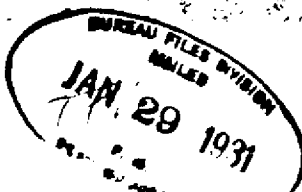
It will be noted in this letter that a definite trial date for the hearing in the case against Capone has not been set, the case having been continued indefinitely from January 19, 1931.

I have been subsequently advised by the Special Agent in Charge of the Chicago office that the continuance granted to the defendant Capone was subject to termination on forty-eight hours' notice and that while the definite date for the trial has not been set, it will probably be designated for a date within the next ten or fifteen days.

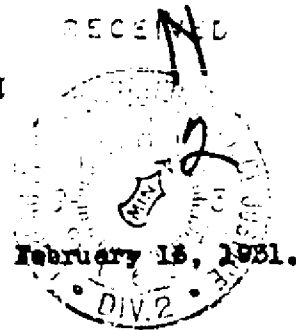
Respectfully,

Director.

Enc. 456280



U. S. Department of Justice
Bureau of Investigation
P.O. Box 1405,
Chicago, Ill.



FEB 20 1931 PM

Director,
Bureau of Investigation,
Department of Justice,
Washington, D. C.

69 -

Dear Sir:

Re: ALPHONSE CAPONE et al
CONTEMPT OF COURT; PERJURY

180

Inquiries made today in the court of Federal Judge Wilkerson with respect to the probable date upon which the instant matter may be heard develop the following information:

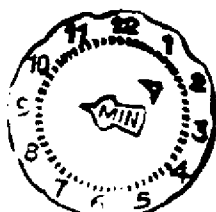
Attorneys for the defendant have filed a motion to quash, alleging a technical defect in the information filed against Subject. District Judge Wilkerson has assigned the 19th instant for hearing of the arguments on the motion to quash.

District Judge Wilkerson has indicated that in the event the motion of the defendant's attorneys is over-ruled, this matter will be heard on the 25th instant and states in this connection that counsel for the defendant have agreed to produce their client in court in the event the matter comes on for hearing on February 25.

This office will continue to keep the Bureau advised as to developments in this case.

Very truly yours,

J. E. P. Dunn
J. E. P. DUNN,
Special Agent in Charge.



JEPD/EC
69-19



FEB 24 1931

RECORDED

FEB 24 1931

FEB 19 1931

69-180-150
BUREAU OF INVESTIGATION
FEB 18 1931 A.M.
Nathan
FILE

P. O. Box 22,
Jacksonville, Florida
February 8, 1934.

Special Agent in Charge,
Bureau of Investigation,
P. O. Box 1408,
Chicago, Illinois.

Dear Sir:

RE: ALFRED J. CAPONE;
KENNETH PHILLIPS, M. D.;
Contempt of Court, Federal.

Reference is respectfully made to your letter of the
5th ultimo in the above styled matter.

Please be advised that on the occasion of the recent
visit of United States Attorney George E. Q. Johnson
at Miami and Miami Beach, Florida, he contacted, at
Miami, Special Agent E. L. Dameron of the Jacksonville
office who cooperated with Mr. Johnson in the location
and interview of the desired witnesses and also assisted
the Marshal in the service of the subpoenas designated
by Mr. Johnson.

In the event further investigation or action is desired
in this district, you may so advise and the same will
receive prompt attention.

Very truly yours,

Harold E. Anderson,
Acting Special Agent in Charge.

ELD:SLM
Jax File #69-2
cc Director

69 180

Dis. Two

TWJ

RE: ALPHONSE CAPONE
KENNETH PHILLIPS, M.D.
CONTEMPT OF COURT;
PERJURY.

69. 180

FEB 24 1931

69-180-51
BUREAU OF INVESTIGATION
FEB 19 1961 A.M.
U.S. DEPT. OF JUSTICE
Mr. One Nathan
- Del. Two FILE

Chicago Evening
American
MONDAY, FEBRUARY 18, 1931

CAPONE FACES U. S. TRIAL FEB. 25

Al Capone, czar of Chicago gangland, must face Federal Judge James H. Wilkerson one week from Wednesday in the contempt proceedings brought against him, unless the court sustains the motion of defense attorneys to quash the proceedings.

Arguments on the motion to quash were begun today and will be heard again Thursday morning. If the court overrules the motion, Judge Wilkerson said, the hearing will begin February 25. Attorneys William F. Waugh and Benjamin P. Epstein are pressing the motion, with Assistant District Attorneys Jacob I. Grossman and Daniel Anderson opposing it.

The contempt proceedings grew out of Capone's failure to appear in Federal Court here in answer to a subpoena when he was in Florida about two years ago. He claimed sickness prevented him from appearing on the day specified, but made an appearance six days later. The government charges that, despite his claim of sickness, Capone was seen attending the races in Florida at the time.

A question over the pronunciation of Capone's name arose in court today, with Judge Wilkerson requesting that it be settled before he went further with the case.

Attorney Epstein and Prosecutor Anderson had been referring to him as though the final letter in the name was sounded, to rhyme with Tony, but Attorney Waugh had pronounced his client's name Capone—rhyming with stone. When the judge asked that pronunciation of the name be settled, Attorney Waugh informed him that the way in which he had been pronouncing it was correct.

Form No. 1

THIS CASE ORIGINATED AT

JACKSONVILLE, FLA.

REPORT MADE AT Chicago, Illinois	DATE WHEN MADE Feb. 20, 1931	PERIOD FOR WHICH MADE Feb. 17, 1931	REPORT MADE BY F. T. Mullen
TITLE ALPHONSE CAPONE KENNETH PHILLIPS, N. D.			CHARACTER OF CASE CONTINUITY OF CASE FBI

SYNOPSIS OF FACTS:

On date February 17, 1931, attorneys representing Subject Capone appeared before Federal Judge Jas. H. Wilkerson, Chicago, the set Thursday, February 19, 1931 as the date to hear arguments on motion of the attorneys for Subject Capone to quash the information. Federal Judge Wilkerson also set February 25, 1931 as the date for Subject Capone to show cause in case the motion of Subject's attorneys is overruled. Motion to dismiss information and quash warrant of arrest overruled.

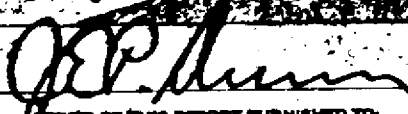
- P -

REFERENCE:

Report of Special Agent T. F. Mullen, Chicago, Ill., dated November 8, 1930.

DETAILS:

On February 17, 1931 the above subject matter was called before Federal Judge Jas. H. Wilkerson, Chicago, for the purpose of again setting a date for a hearing of this case. On the motion filed by Epstein and Naugh, attorneys for Subject Capone, to quash the information filed by the United States Attorney against Subject Capone, Judge Wilkerson set February 19, 1931 as the date for the hearing on the motion. On February 25, 1931 as the date upon which Subject Capone must show cause as to why he should not be held in custody until the latter date for the appearance of Subject Capone to the Federal Judge Wilkerson overruled the motion of Subject Capone's attorneys. Attorneys Epstein and Naugh were ordered to appear if necessary.

APPROVED AND FORWARDED 	SPECIAL AGENT IN CHARGE	69-180-52	RECORDED AND INDEXED FEB 26 1931
COPIES OF THIS REPORT FURNISHED TO: 2- Bureau 2- Jacksonville 1- U. S. Atty. Chicago, Ill. 2- Chicago		BUREAU OF INVESTIGATION FEB 24 1931 A M DEPARTMENT OF JUSTICE	CHECKED OFF: MAR 2 1931 JACKETED
ROUTED TO:		FILE	

for them to show cause on February 25th they could have the subject present in the courtroom on that date.

On February 19, 1931 motion to dismiss the information and quash warrant of arrest against Subject Capone was submitted by Federal Judge Wilkerson and the date for hearing of this matter set for February 25, 1931.

Special Agent O. G. Dewey conferred with Assistant U. S. Attorney Grossman who advised that subpoenas for the necessary witnesses have been forwarded to the U. S. Marshal at Jacksonville, Florida and that he is directing a communication to the Jacksonville Bureau Office requesting that an agent aid the U. S. Marshal in serving these subpoenas and seeing that the various witnesses are started on their way to Chicago.

UNDEVELOPED LEAD.

CHICAGO OFFICE will keep in touch with Assistant U. S. Attorney Grossman as to any action he desires taken regarding this matter and to cover hearing of this case on Feb. 25, 1931.

• PENDING •

RECEIVED

P. O. Box No. 1406,
CHICAGO, ILL.



FEB 20 1931

Special Agent in Charge,
Bureau of Investigation,
Box 38,
Jacksonville, Fla.

RE: ALPHONSE CAPONE,
ROBERTA PHILLIPS, N.D.,
Contempt of Court-Perjury.

Dear Sir:

With reference to your communication of the 20th

instant concerning the above entitled case, you are advised that
the report of Special Agent T. F. Mullen, dated February 20, 1931
records information concerning the present status of this matter.
The date for hearing in this case has been set for February 20,
1931 at Chicago, Illinois.

Very truly yours,

R. O. HARVEY,
Acting Special Agent in Charge.

ROH-mk

cc Bureau

69-19

69-180
BUREAU OF INVESTIGATION

1-3

Div. Two

170

RECEIVED



P. O. Box 22,
Jacksonville, Florida.

February 20, 1934.

Special Agent in Charge,
Bureau of Investigation,
P. O. Box 1408,
Chicago, Illinois.

Dear Sir:

RE: ALFRED CARSON;
KIMMETH WILLIAMS, M. D.;
Sentences of Court, Jackson.

Referring to your letter of January 24, 1934, under
above caption, addressed to the Director, I will
appreciate advice if any further action has been
taken toward disposing of this matter.

Very truly yours,

Louis De Motte,
Special Agent in Charge.

DeM:ELH
Fax File #99-6
cc Director

69-180

F.B.I.

Use Two

171

PATRONS ARE EDU

CLASS OF SERVICE

This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable sign above or preceding the address.

The filing time as shown in the date line on full-rate telegrams and day letters, and the time of receipt at destination as shown on all messages, is STANDARD TIME.

Received at 708 14th St., N. W. Washington, D. C. ALWAYS OPEN

CB116 22 GOVT=CHICAGO ILL 25 620P

DIRECTOR, BUREAU OF INVESTIGATION

DEPARTMENT OF JUSTICE WASHINGTON DC=

RE ALPHONSE CAPONE ET AL CONTEMPT OF COURT SUBJECT APPEARED

FOR TRIAL TODAY MATTER TO BE DISPOSED OF BY TOMORROW WILL

ADVISE=

HARVEY ACTING.



FEB 26 1930

RECORDED

69-180-

Nathan

THE QUICKEST, SUREST AND SAFEST WAY TO SEND MONEY IS BY TELEGRAPH OR CABLE

THE COMPANY OF CABLES AND

**ESTE
UNION**

BYONS	
DL	Day Letter
NLT	Night Letter
ML	Month Letter
LOO	Deferred Cable
NLT	Cable Night Letter
WLT	Week-End Letter

1931 FEB 25 PM 7:34

N 2 177

CHICAGO DAILY NEWS
Thurs., Feb. 26, 1931.

N-MR
MA

Capone Real Mayor Here, Editors of Vienna Say

BY JOHN GUNTHER.
SPECIAL CABLE

To The Chicago Daily News From the
Overseas, Vienna, Austria, Feb. 26.—Al
Capone is the real mayor of Chi-
cago today, say Vienna's Viennese
editors, commenting vigorously &
belatedly on what they call "Chi-
cago's 'bloody polling' and
the presence of the redoubtable
al in open court right on the
heels of Mayor William Hale
Thompson's victory seems to
these commentators at their safe
distance of 1,000 miles, to prove
conclusively that Capone is Mayor
Thompson's boss.

The New York Times says that
Capone was able to return to Chi-
cago openly because it was his
influence that caused the
election. It adds:
"The regular martial law was pro-
claimed round the federal courts
in honor of the king of Chicago
gangsters."

The News Wiener Telegraph
says police were instructed to at-
tend Capone's private golfing
rounds in order to guard him from a
possible attack. "Although his
most of his enemies."

Another Vienna newspaper sa-
ys today with big headlines, a
serial biography of Capone, which
treats him with all the glamour
and romance of a mythical hero.
Chicagoans may be further im-
pressed to hear that famous
loop streets are what Vienna
newspapers say is Capone's
vulgar life.



MAR 2 1931

NOT RECORDED

INDEXED

69-180
69-180-53X

2CE
CITY AND SUBURBS
IN ELSEWHERE

DAILEY

ILLINOIS
CHICAGO'S PICTURE

Vol. 2. No. 149

Full Associated Press Service

CHICAGO, THURSDAY,

Museum Head's Son Seized, Pal

SHOT



MAYBE IT'S A HANGOVER.—Al Capone seemed a bit depressed when snapped in Judge Wilkerson's federal court. He had a little shifty aim.

after all-night whoopee at which gangland paid honor to the Big Shot's perhaps it was thoughts of vag he after Uncle Sam was through. —See p. 1

IN HOLDUP

(Story on Page 2)



(DAILY TIMES Photo)

BANDITS' SWEETIES?

—These girls were questioned by Grand Crossing police today after doctor reported treating wounded bandit in house where they were arrested. The girls (left to right) are: Mae Palombo, sweetie of James Bennett, the wounded bandit; Toots Weiss, Elizabeth Weiss, Kitty Tufaro. Bennett and his pal were



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U. S. Department of Justice
Bureau of Investigation
P. O. Box No. 1405,
CHICAGO, ILL.



February 26, 1931.

Director,
Bureau of Investigation,
Department of Justice,
Washington, D. C.

RE: ALPHONSE CAPONE;
KENNETH PHILLIPS, M. D.
CONTEMPT OF COURT-PERJURY

Dear Sir:-

I am transmitting herewith for your information
copies of clippings from the local press in connection with the
above entitled case.

Very truly yours,

R. D. Harvey
HARVEY,
Acting Special Agent in Charge.

RGH-mk

69-19

Enclosures.

FEB 28 1931

RECORDED & INDEXED

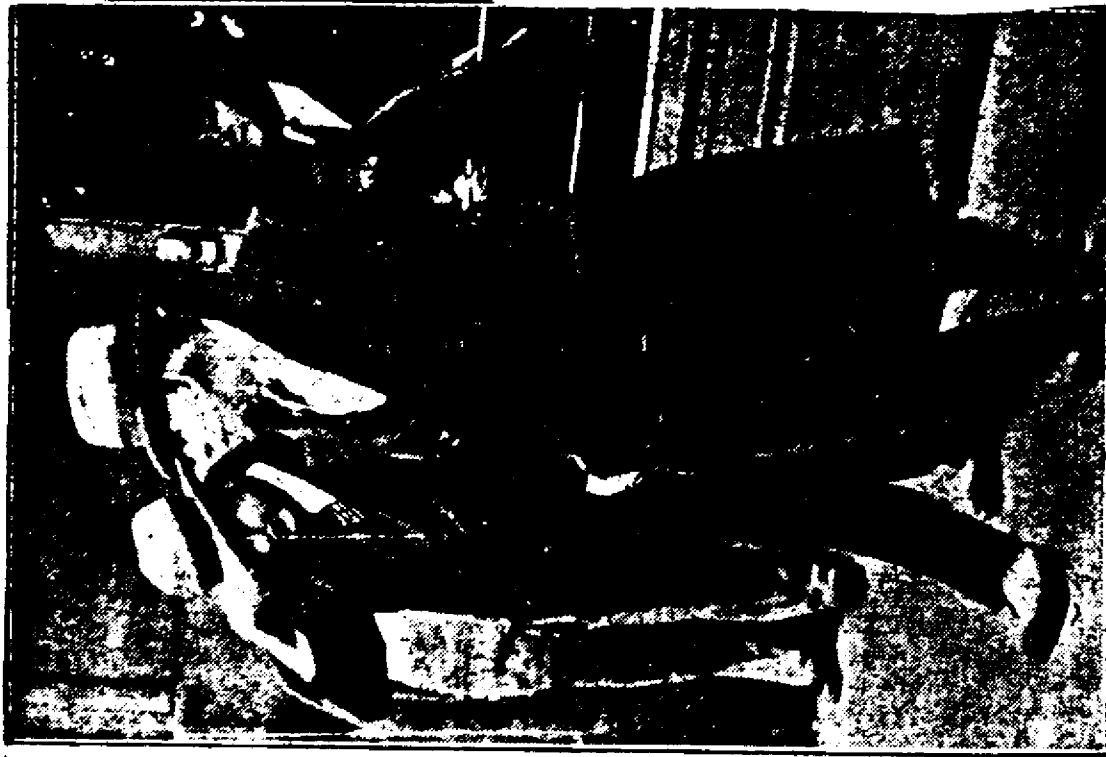
MAR 3 - 1931

69-180-54

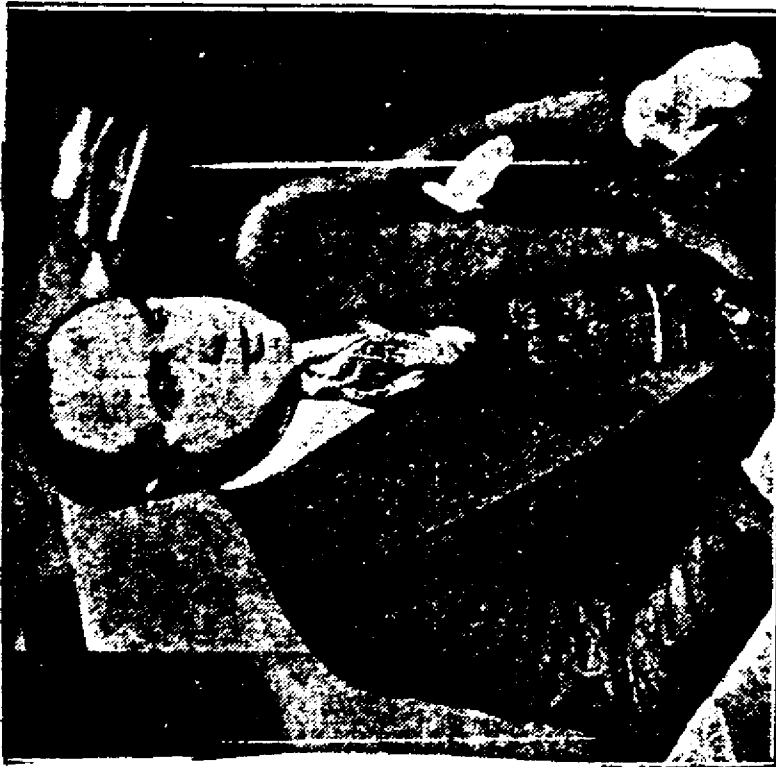
FEB 28

Mr. Clegg
Mr. Glavin
Mr. Ladd
Mr. Nichols
Mr. Rosen
Mr. Tracy
Mr. Carson
Mr. Egan
Mr. Gurnea
Mr. Hendon
Mr. Pennington
Mr. Quinn
Mr. Nease
Miss Gandy

176



ON HIS WAY BACK TO UNITED STATES COURT
Al Capone dodging camera as he left the detention house
with Assistant Chief of Detectives Raftery.



(REUTERS PHOTO)

AS HE APPEARED AT THE DETECTIVE BUREAU.
Al Capone after his arrest on vagrancy warrant. He was
taken to the State-street station, where his finger prints
were taken.

10. 1011-54

177



PHOTOGRAPH BY AP

COURTROOM CROWDED AS GOVERNMENT PRESENTS ITS CASE AGAINST AL CAPONE IN CONTEMPT OF COURT PROCEEDINGS.
(1) Al Capone, (2) Benjamin P. Epstein, and (3) William F. Waugh, Capone's attorneys; (4) Jacob Grossman, assistant United States district attorney, speaking; (5) W. R. Foster, Hialeah, Fla., government witness; (6) Judge James H. Wilkerson. The room was filled to capacity, spectators occupying the first box in the background.

69-180-54

prevent suspicion of entering the federal penitentiary. Only newspaper men, attorneys and federal officials were permitted to attend the arraignment.

Talks Freely to Reporters.

The reporters Capone greeted amiably, declaring he arrived in Chicago last Friday, refusing to state by what route.

He laughed derisively when asked whether he contributed \$150,000 to the Thompson campaign fund.

"What do you think of the election?" he was asked.

"Lyle tried to make me an issue and the public has given its answer," was the reply.

"No, I'm not going into the movies," Capone said in reply to another question. "Neither am I going to write my autobiography. It probably would make me a lot of money. I have been offered as high as \$2,000,000, including movie, serial, and book rights. But I am not going into the literary business."

Where Capone stayed last night was not learned, but it did not matter to the authorities. The vagrancy warrant has been served.

Florida Policeman Testifies.

John M. Coroneas, a policeman from Hialeah City, was the first government witness to combat Capone's illness plea. An affidavit from Capone's physician, Dr. Kenneth Phillips, which gained a stay for the grand jury appearance from March 12 to March 20, stated that Capone was convalescing from "broncho-pneumonia pleurisy, with fluid effusions in the chest." Dr. Phillips first attended Capone on Jan. 12.

"When did you first see Capone?" Coroneas was asked by Prosecutor Jacob Grossman.

"On the first or the second day of the opening of the Hialeah races. They opened on Jan. 17, 1923," said Coroneas.

Q.—Which was it, the first or the second day? A.—The second. I was patrolling the grounds and I saw a big yellow car pull up in a space reserved for the sheriff. I started towards the driver, but somebody said that was Al Capone, so I gave him service.

Q.—What did you do then? A.—I walked over to the ticket office and waited for him. I said "Hello, Al," and he said, "Hello," handing me a \$10 bill, which he peeled off a roll he took out, to buy the tickets with.

Seen Frequently at Races.

Q.—Did you see him after that? A.—I saw him frequently until the closing of the races, March 3.

Q.—How many times did you see him. A.—About fifteen or twenty times.

Q.—How did he look? Did he appear in good health? A.—He was the picture of health, always smiling and in good spirits.

Q.—[By the court] Did you talk to him about his health? A.—No, judge. I just saluted, like this, and said "Hello, Al."

Gives Cap a \$10 Tip.

James T. Wood and W. R. Foster, two other policemen from Hialeah, testified Coroneas

A.—On Feb. 2, when I took him to Bimini and back to Miami.

Q.—How did you go—in an open plane? A.—Yes.

Q.—How long did it take? A.—About 45 minutes each way.

Q.—How long were you in Bimini? A.—About three hours.

Prosecutor Grossman at this point introduced the manifest supplied immigration officials, which gave his passenger list as Alphonse Capone, Nicholas Cirrella, Tony Clarke, and Philip D'Andrea.

A steamship trip to Nassau was not described, but the records of Capone's arrival and departure from Miami with his young brother, Alfred, were introduced through identification of immigration authorities and J. W. Cooper, agent for the Munson lines who said he booked Capone for the passage on Feb. 8. The return manifest was dated Feb. 13.

Assistant United States Attorney Daniel Anderson, who represented the government when Capone appeared before the grand jury investigating booze conditions in Chicago Heights, took the stand for the government and a spirited colloquy between counsel as to whether Capone addressed a letter to "Hon. James H. Wilkerson" ensued.

Wanted to Avoid Contempt.

The government contended in the opening statement that Capone sent a letter with the affidavit of Dr. Phillips stating that he did not wish to be in contempt of court, but desired a continuance on the advice of his physicians. A continuance was granted by Judge Wilkerson on the 11th of March and Capone appeared on the 20th.

Attorney Epstein insisted that the letter, which the prosecution claimed it could not find, and which the defense did not produce, was addressed to him and Attorney Waugh, retaining them as counsel.

The controversy over the addressing of the letter resulted in the introduction of a part of Capone's testimony when he finally appeared before the grand jury, wherein the respondent admitted that he wrote Judge Wilkerson a letter and gave contradictory testimony as to his confinement to bed in Florida.

What Is "Sick in Bed?"

The question of what is meant by the term "confined to bed" figure prominently in the testimony of Dr. Phillips, who was the only defense witness introduced before court adjourned yesterday.

Q.—When were you called to the home of Capone at Palm Island? A.—On Jan. 12, 1923.

Q.—What was his condition and how

Q.—Where was he, to bed? A.—He was sitting out on the porch with several other men.
Q.—How was he dressed? A.—In gray flannel trousers and a camel-hair coat.
Q.—Did he appear ill? A.—He looked just like he does now.

Woman Tells of Interview.

Miss Ruth Gaikin, secretary to Robert R. Taylor, former solicitor of Dade county, Florida, who questioned Capone on Feb. 14, 1929, told of the interview.

Q.—How did he appear then, sick or in good health? A.—He didn't look any different from the way he does now.

Q.—Did he say anything about being sick? A.—Not that I knew of.

The airplane trip to Bimini, on Feb. 3, when Capone was "confined to bed" and convalescing from his "desperate illness" of Jan. 13, was described by Edward Nirmarrer, the pilot.

Q.—Did you ever see Al Capone? A.—Yes.

Q.—Do you see him here in the courtroom? A.—(After searching the crowded room for a full minute)—There he is.

Took Pictures of Estate.

Q.—Tell us about the first time you saw him. A.—It was in January, 1929, at his estate at Palm Island, about two weeks before. I took him on a trip to Bimini. I had taken a photographer on a flight over the J. C. Penney estate, where Mr. Hoover was going to stay, to get pictures. We made some pictures of Capone's estate and the photographer asked me to there and try to sell some of them.

Q.—Did you go there? A.—Yes, gave him some of the prints and told him where he could get some more. Incidentally, I took one of his friends for a ride.

Taken on Airplane Ride.

Q.—What was Capone doing? A.—He was sitting around in a dressing gown.

Q.—When did you next see him?

Q.—Did you give him the treatment for pneumonia? This individual is a heavy smoker and to have the extreme treatment Judge Wilkerson interposed quite if Capone was "dangin' ill." "In my opinion, he was the physician."

Q.—(By the court)—How long he confined to his bed? A.—Six weeks.

Could Get Out of Bed.

Q.—(By counsel). State what you mean, professionally speaking. You said he was confined to five or six weeks. A.—Well, by confined to his bed I don't mean he couldn't get up at times, go to bathroom, sit up a while, or be carried to an automobile for a ride.

Q.—You mean that he was resuming his activities? A.—Yes.

Q.—Did you examine the respondent on March 5, 1929? (This was the date of the affidavit.) A.—I examined the night before. He was still lying and had effusions of fluid in chest cavity. I advised him to go to Chicago, where the climate considerably colder, would be dangerous.

Capone's nurses will testify to today, and the hearing is expected to be concluded during the day. Punishment for contempt is within discretion of federal judges, but courts have usually limited terms for contempt to one year.

CHICAGO TRIBUNE 2/26/31



Save 50%

only \$18.00 round trip

to St. Paul-Minneapolis

Tickets on sale daily. 15-day return limit. Travel in warm sunny coaches or first class.

IN CHICAGO
SUNDAY FEBRUARY 27

FINAL EDITION

OLD

Seize Wealthy Man; Threaten to Kill Him

Harry Kaplan, 1650 South Harding avenue, a wealthy retired cigar manufacturer, was kidnaped on the eve of his scheduled appearance as complaining witness against two men and two women who are charged with robbing him. He was held captive for a time and threatened with cremation in the boilers of an abandoned Terry Drugan brewery at West Roosevelt road and South Campbell avenue unless he paid \$10,000 in ransom.

Kaplan escaped from the kidnapers yesterday morning when they took him to the Continental Illinois Bank and Trust company, 231 South La Salle street, where he told a teller he wanted \$5,000 in cash from his account to pay for ransom. The bank teller, by the use of a private bank signal, called out the bank's guards and Kaplan's kidnapers fled before they could be arrested.

Witness in Robbery Case.

The cigar manufacturer was scheduled to appear yesterday morning in Judge Peter Schwabe's Criminal court against Hans Bowman, Gilbert Tosch, Jessie Welch, and Mary Andrews on a charge of robbing him of \$735 on Jan. 7.

The robbery charge grew out of a visit by Kaplan to the Welch woman's home at 3227 Michigan avenue to see the Andrews woman. He charges that Bowman and Tosch followed him from the flat, dragged him into a barn at 114 East 84th street, and robbed him of \$735.

When the case was called for trial Assistant State's Attorney Nat Ruvel asked for a continuance on the ground that the complaining witness did not respond to the subpoena. Attorney W. W. O'Brien, representing the defendants, demanded a trial, saying that he would be busy next week defending William J. (Three Fingers) in a murder case and that he would be busy next week defending the other defendants in the case.

U. S. WITNESSES SAY GANG CHIEF ATTENDED RACES

Makes Defense in Court Today.

(Pictures on back page.)

The government concluded its contempt of court case yesterday against



EDWARD WIRMARER. (Advisor who testifies against bands who Capone.)

Alphonse Capone, Chicago's foremost public enemy, with a trial that brought thrills for every clerk and stenographer in the federal building and disappointment

to the U. S. were turned away at the street entrances. Federal Judge Wilkerson, who sentenced Al's brother, Ralph, to three years in the penitentiary, is hearing the case. The defense began late in the day and will be concluded today.

The government accuses Capone of contempt of court by feigning illness to avoid a federal grand jury summons. Against the contention of the defense that Capone was telling the truth when he said he was ill, the government says he was not.

The kidnapers would not allow Kap-
lan to leave the automobile, but they

Not only police but all branches of the government turned out for the Capone trial—the secret service, deputy marshals, special intelligence men from the revenue department, who are interested in Capone's income tax affairs; postal inspectors, prohibition

Gang Leader in Chicago for Primary

Al Capone, public enemy No. 1 and reputed contributor of \$150,000 to the primary campaign fund of Mayor Thompson, was reported yesterday to have returned to Chicago from his winter estate at Miami. Dispatches from Miami said he had departed from there and last night he was believed to be in seclusion in one of his Chicago suburban headquarters.

Coincident with these reports Judge John H. Lyle, who is attacking the Capone influence in the city hall administration in his campaign for the Republican mayoralty nomination, was provided with a bodyguard of two motorcycle policemen who are to accompany him night and day. Judge Lyle did not ask for the bodyguard, but said he would accept it "in view of the interests which the gang chief has at stake in the primary."

Gang Patrol of 1927 Recalled.

It was recalled that Capone returned to the city for the primary election of 1927 and was seen in the loop accompanied by ten men on Monday, April 4, the day before the primary. For that primary Capone contributed \$50,000 to the Thompson campaign chest, according to charges made by Judge Lyle. This year the gang chief's ante to the Thompson campaign was \$150,000, the judge charges.

There were divergent reports of the method of Capone's departure from Miami, one that he had left by plane and the other that he had gone by train. The latter was considered the more likely since it had substantiation at Danville, Ill., though it was pointed out that the gang chief might have boarded a train after flying out of Miami.

Seen by Danville Policeman.

Traffic Policeman Wiley Watson of Danville said he recognized as Capone a man who left the Dixie Limited of the Chicago and Eastern Illinois railway at Danville yesterday morning. The policeman identified the gang chief from his pictures and the scar on his face, he said, and called out, "Hello Al." The stranger stopped, admitted he was Capone, chatted for a moment and said he was flying to Chicago, according to Watson.

He was accompanied by two men, and a third man, described as recent-

ly his brother, Al Capone, was waiting in a sedan which left shortly after the Danville airport, Watson said. At the airport, it was reported, that a cabin plane took off at 11:30 a. m.

Recognized by Passenger.

Policeman Watson said he talked with a woman passenger who also left the Florida train at Danville and asked her whether she recognized the man getting into the waiting sedan.

"Why, sure, that's Al Capone," she replied. "Everybody on the train has been talking about him."

Dispatches from Miami quoted Dr. George H. Day of the United States public health service as saying that Capone and a bodyguard of four men left by plane for Atlanta on Friday. Officials of the Eastern Air Transport at Miami said that five men purchased tickets for the flight but that Capone's name was not on the passenger list.

If Capone arrived in the Chicago area by plane, as the Danville report indicated, he apparently landed at some secluded spot to keep out of the way of the vagrancy warrant which was issued for him several months ago by Judge Lyle.

Loesch Backs Fund Charges.

Judge Lyle's charges of Capone contributions to the Thompson campaign fund have been supported by Frank J. Loesch, president of the Chicago Crime commission and formerly a special prosecutor of fraud and violence at the polls. Loesch declared that Capone had poured a total of \$250,000 into the Thompson fund for the primary and election of 1927.

City Sealer Dan Serritella, Capone lieutenant and a member of the city hall cabinet, has been actively identified with the present Thompson campaign, appearing with Thompson at his loop theater meetings and sitting on the stage during his speeches.

Serritella's affiliation with the Capone gang has not been disputed. Mope Volpe, another Capone lieutenant, boasted at a hearing before immigration officials seeking his deportation that Serritella accompanied him on an airplane flight from Havana to Miami.

Faces Federal Hearing.

On Wednesday Capone is scheduled to appear before Federal Judge Wilkerson for trial for contempt of court. This charge grew out of his feigning illness in Florida two years ago to avoid appearing before a federal grand jury investigating booze conditions in Chicago Heights. The government contends that he was well enough to attend dog races and gambling houses.

Capone's attorneys, William F. Waugh and Benjamin P. Epstein, who have assured Judge Wilkerson that Capone would appear in court on Wednesday, said last night they had not heard whether he had arrived.

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69-180-54

Tues., Feb. 26, 1931.

CAPONE'S HAND REPORTED BUSY IN DAY'S VOTING

Police Hunt Gang Boss in
Vain as Rumors Hint at
His Activities.

CASE UP TOMORROW

Slain Man Is Identified

The body of a man, nude and garroted, the face and hands acid strewn, found in a secluded culvert eight miles south of Gary on Feb. 12, today was identified as that of Paul Catalina, who served as a chef in the Little Florence restaurant, 2122 South Michigan avenue, long known as a gathering place for "Scarface Al" Capone's men.

Sheriff Roy Holley announced the identification after a conference with Pat Roche, State's Attorney Swanson's chief investigator.

Catalina disappeared from Chicago Feb. 11. He had been strangled and an effort was made to hide his identity by pouring acid on his face and hands. Identification was made through tracing a dry cleaning mark in a bloodstained hat found two miles from the body.

Capone's hand was reported busy in day's voting. The police, the sheriff's men and state's attorney's aids were reported out on a hunt for Capone, but in the underworld circles it was considered unlikely that Capone would be brought in.

Due in U. S. Court Tomorrow
Meanwhile in the Federal building United States District Attorney George E. Q. Johnson was putting the finishing touches to the indictment case against Capone, which will be presented to Federal Judge James M. Wilkerson tomorrow.

Mr. Johnson was in conference with Assistant District Attorneys Daniel Anderson, Jacob L. Grossman and Cassius Poutel. Grossman and Poutel have won an enviable reputation for their conduct of income-tax cases against gangsters and their addition to the prosecution was regarded as an added proof that determined effort will be made to lodge Capone behind jail bars.

Mr. Johnson said he had six witnesses who would testify that Capone was in good health at the time two year ago that he refused to make prompt answer to a grand jury subpoena on the ground he was ill.

Another report that gained currency in the federal building was that Capone would be the target for income-tax action when he appears tomorrow.

Linked to Ling's Slaying

An Associated Press dispatch from Asheville, N. C., today said that relatives of L. G. P. Van Ness, who was found dead in a Westminister (N. C.) hotel, his throat slashed, advanced the opinion he may have been slain by gangsters because of his supposed knowledge of the slaying of Jake Ling. The first belief was that Van Ness had killed himself.

Assistant State's Attorney James McShane, a member of the board of strategy, today spotted at the idea.

"Van Ness," he said, "was never known to us as a witness."

the handwriting was very like
the detective chief, but he was
not allowed to leave the room. In
the investigation bureau of the United
States, Chicago, Illinois, with
prompted by that mistake that
made it quite plain. Spotters in
Chicago, and got to a point, where he
was reported about at the United
States government, that he was the
one who had been a spy. He was
then taken to a room, and others in the
room that he had been told to
charge a quantity of money for his
work as part of a guarantee that year
and a quarter, attorney, that he
knew that Mr. O'Connell had been kept
from the view, and in fact, at the
time, made a definite suggestion
that Mr. O'Connell be sent to Leavenworth
with a copy of a paper of
Daily Post's book on social conduct.

"Welcome Committee" as yet.
The federal building was decorated
in honor of the prodigal's return.
Decorated principally with secret
service operatives, attorneys, disguised
hoodlums, moving picture camera-
men, uniformed police, city detectives,
process servers, deputy sheriffs, hall-
men, reporters and people who had
nothing much else to do.

In the streets surrounding the
building thousands of citizens, that
great voting populace which the
made Chicago what it is today.
Spotted the excitement and as-
sembled with diligent politeness, and
attempted to keep the sidewalks
clear. The greatest assemblage of
sound-movie apparatus gathered in
the American continent since the
great banking championships at
Cleveland, Ohio, clustered about the
door of Adams, Clark and O'Brien
store with five-ton truckloads of
machines, tubes, coils and recording
devices. The tops of trucks and signs
and private cars for half a block on
either side of any given sidewalk were

(Continued on Fourth Page)

Capone Goes to Trial In U. S. Contempt Case; Seized on 'Vag' Charge

Marshals and Police Greet
Gang Chief as He Dodges
Crowd.

HE'S 'HOME' FOR WHILE

BY ROBERT J. CASEY.

Chicago today stretched forth its arms to welcome its returning son, Alvin Karpis ("Scarface Al") Capone.

He was greeted by a large crowd, by federal deputy marshals who hailed him to court on a charge of contempt, and at his lunch hour by a squad of city police, who hailed him to the detective bureau on a warrant. Chief of Detectives Norton there greeted him as public enemy No. 1.

He was returned to the federal court at 1:30.

The visit to the detective bureau was quite an affair. When mention was made of a bond Capone reached into his pocket, and although there was an involuntary motion of ducking by the spectators the hand came out with nothing more lethal than a \$10,000 real-estate bond, secured by property scheduled at \$30,000. The bond had been approved before the visit by Judge Thomas Green of the Municipal court.

"What about the election?" Chief Norton asked as Capone was munching a sandwich brought by a bondsman.

"I'm just the goat," Capone said.

Schedule to Finger Prints.

For the first time since Dec. 27, 1925, when there was a minor charge against him, the gangster was subjected to the indignity of a trip through the bureau of identification. His age, he says, is 35; his home address, 7244 Prairie avenue, his present address, 1000 North Dearborn.

CAPONE AT DETECTIVE BUREAU



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1 c 60

dismissed him with a wave of his hand:

"No business today," he said.

He glanced appreciatively about the courtroom with its white marble walls, its dull gold ceiling and ornaments and the preamble to the constitution in Roman letters above the door. Mr. Capone, despite his experience in ways beset by the police, has not been in many courtrooms and it was plain that he was interested in the proceedings and setting.

He showed no alarm at the government's charge that he willfully absented himself from a meeting of the grand jury that wanted to interview him in March, 1929.

"It's on the up and up that I was sick," he said. "I came up here when I was able to travel. I don't mind seeing grand juries. I do everything I can to help them. I don't think there'll be anything to this case."

Keeps Route a Mystery.

Mr. Capone declined to tell the route he had followed in his journey from Florida to Chicago and he was equally reticent on the subject of how he might have cast his vote at the primary. But he laughed scornfully at the suggestion that he had contributed \$150,000 toward Mayor Thompson's campaign fund.

"I don't waste money that way," he said. "I came home because I live in Chicago. And it doesn't make any difference how I got here. I got here."

He did state, however, that he had

declined the reason for the district attorney's summons with the waiter and Mr. Capone took his place at the table beside William F. Waugh and Benjamin Epstein, his attorneys, in the federal matter.

A plea of not guilty was entered. Jacob Grossman, representing the government, made a statement setting forth that Mr. Capone had grossly deceived his Chicago friends, not to mention the grand jury and the court, by pretending to be near death from broncho-pneumonia-pleurisy, whereas at the time he was actually dashing about to prize fights and horse races in Florida.

The judge wanted to know in what state Mr. Capone was resident and Mr. Grossman settled this question by stating that the grand-jury subpoena which started all the trouble had been served in Florida.

The district attorney outlined the case to the effect that Mr. Capone had replied, through his attorneys, that he was physically unfit to make the long journey to Chicago, submitting with his letter an affidavit signed by Dr. Kenneth Phillips describing the malady from which the patient sufferer was fortunately recovering.

The False; The True.

Mr. Grossman stated that the government would prove that the affidavit was false and that Mr. Capone was in the best of health and spirits and fully able to travel 1,800 miles if he had wanted to.

Mr. Epstein in the opening state-

ment, however, opened, led by Chief George Washington. He was taken down from the sixth floor in a freight elevator to the postal subway, where he was transferred to a squad car.

There he was asked by Lieut. McCarty if he had any objections to being taken to the selective bureau.

"No objections," said Mr. Capone. "Show me where it is."

New Charge Arises.

The charge on which Capone was haled into court grew out of Capone's refusal two years ago to give prompt heed to a federal grand jury summons. Government men had staged a raid in Chicago Harbors, uncovered information about which they desired Capone to speak.

A grand jury summons was sent to Florida. Capone sent his regrets to the grand jury, saying he was too sick a man to make the journey to Chicago.

Aviator Testifies.

The first witness of the afternoon session was Edward Warmaker an air pilot who testified that he had taken Mr. Capone and a party from Miami to Miami, the bootleggers' island in the Bahamas, on Feb. 2, 1929.

He was followed by J. W. Cooper, agent for the Munson steamship line, who said he had booked Capone for passage aboard the S. S. Northland from Miami to Nassau on Feb. 8. Both witnesses produced manifests to show the passenger's age as 30. His business was set forth as real estate.

covered with cameramen standing
ready at their cranks.

No such display of gold braid has been seen in Chicago since the last annual ball of the old volunteer fire department as was mobilized on the postoffice steps. Captains, lieutenants and lesser officials of police—not to say a generous representation of visiting firemen—milled through the crowds on the sidewalks and mingled with the ingenuitely open who got into the federal building corridors on the pretense of having business there. Squad cars, sirens screeching, made the circuit of the block with the monotony of a political parade. And the agile populace practiced itself in the technique of keeping from being trodden underfoot.

Makes Sudden Appearance.

He laughed at suggestions that he stop to pose, made his way quickly across the rotunda of the building and entered an elevator. His bodyguard, if present, was instructed

never been in Woodstock, Ind., Danville, Ill., and Des Moines, Iowa, where he appeared simultaneously just before election.

*** Protects Our Rainy Weather.**

"I'm not going back to Florida, because we are having a better wind up here," he explained. "I've been going down to Miami for six years and never have I seen weather like we've had there in the last six months. There were only about six days when it was warm enough to go swimming."

"I've been asked if I have come home to write my autobiography," I haven't. It probably would make me a lot of money. The last one I had was \$2,000,000—that included moving-picture rights, serial rights and book rights. But I'm not going into the literary business. That would be cutting in on the work of the boys who are writing about me.

"I read one of the books at the market now and I don't think much of it. It's well written as far as I could see from the two pages at the beginning—but it's about somebody else. I don't belong in this book any more than I belong in a book by Horatio Alger. I guess maybe I could write a better one, but that sort of stuff isn't my line.

"And you can say for me that I'm not going into the movies, either. I saw a page in one of the papers about a month ago telling about how I was going into the pictures." He grinned genially. "Can you fancy that? Well, anyway, I'm not going into the movies. I'm no Mary Pickford."

Capone was quietly dressed in a blue suit, gray spats, dark shoes, white shirt and diamond watch chain and he sat unobtrusively in a corner of the room until called to the table before the judge for his hearing.

Toward 10 o'clock the investigators at the door speeded their process of examination and the benches began to fill up with men and women who had been disappointed in their attempt to shoot a welcome and shew the flowers downstairs. Silence was maintained by six deputy marshals, who, forced all spectators, including attorneys, to find seats and announced the vigorous measures that would follow any whispering or other indecorous conduct.

There came presently Michael Ahern of counsel for the defense, who talked with his client briefly concerning the charge of vagrancy to which Mr. Capone will be called upon to answer when the government finishes with him.

"I'm going to surrender as soon as I get out of here," Mr. Capone announced languidly. "I'm not going down to Florida any more this winter. The weather is better up here. Anyway, Chicago is my home and I might as well get this business distributed out."

mean for the defense. "I don't know," the witness was asked, "whether Mr. DePonce had been called to the stand or not on but several occasions before and what he had been to the stand, during those six weeks, DePonce testified, Mr. DePonce had not actually been up to stand to his testimony." P. 10

Mr. Epstein began his argument by stating that the warrant issued had brought his client back to the scene of his youthful conviction that been erroneously drawn. Judge Wilkerson declined to be upset about that.

"Whether or not it was a good warrant it has served its purpose," he said. "The respondent is in court."

So when Mr. Epstein went further into the matter of Dr. Phillips' affidavit and declared that it was untrue except for the loose wording as certain phrases having reference to them.

"As I see it," he said, "there are two questions in this case."

First, whether or not the defendant was guilty of misbehavior in preparing his allegations, and, second, whether or not he misrepresented the facts in inducing this court to grant a continuance.

"We shall show that he did not intentionally show contempt for this court—that he was willing to come here when his physical condition permitted and that, in fact, he did come here.

"The defendant was summoned to appear on March 12, 1939. We shall bring witnesses to show that he was in poor health as late as March 8. He did come here and appear before the grand jury after that date and was made to read his book for days. When, finally, he was heard by the jury he was dismissed."

The first witness called by the government was Charles W. Clarke, a special agent of the intelligence section of the treasury department with headquarters in Florida. Mr. Clarke testified that he had served the grand jury subpoena on Mr. Capone at his Palm Island estate after a doorkeeper had denied knowing anybody named Mr. Capone. Mr. Capone himself had revealed his identity to the tribunal doorkeeper and the visiting special agents by stepping forward and announcing himself at an opportune moment. Mr. Clarke testified that Mr. Capone did not appear to be near death at the time.

Mr. Clarke was followed by ~~Adm.~~ Ruth Clarkin, secretary to the county solicitor of Dade county, Florida, in which the city of Miami is situated. She told of a conference in the solicitor's office in March, 1935, at which she had seen Mr. Capone. And she also stated that he seemed to be in the best of health and spirits.

Capone Dodges Crowd And Appears in Court Heavy Guard on Hand

Walks In with Lawyer to
Answer Contempt Charge;
Denies Guilt.

PUBLIC IS KEPT OUT

"Scarface Al" Capone, jailbird and racketeer, made his long-delayed public bow in Judge Wilkerson's federal courtroom today to answer a contempt of court charge, but he eluded most of a crowd of several hundred curious who appeared to get a look at him.

After dallying in the courtroom for an hour, awaiting the start of the hearing, Capone, through his counsel, entered a plea of not guilty. He then sat by listening attentively while the judge and attorneys began a discussion of the legal phases of the case. The government had half a dozen witnesses ready to testify.

The federal building was strongly guarded, a barricade was erected in the corridor leading to Judge Wilkerson's courtroom, and the public was excluded. Two policemen waited to take him to jail as a vagrant when he left the courtroom.

The stage was set to greet the notorious gangster with all the pomp and ceremony of a prima donna making a debut. At the Adams street entrance to the federal building there gathered a crowd of several hundred, waiting and snarling and blocking traffic.

Along sound-recording trucks at the curb perched movie cameras, their lenses trained on the Clark street door. And then, like a jolly prima donna, Mr. Capone literally walked down the back aisle to the stage while the throng was expecting him to enter from the wings.

At exactly 9:25 a clock a big man, looking like anybody else's, emerged, pulled up to the Adams street entrance, around the corner in the rear just past the Capone, alone and unattended by any bodyguards whatsoever.

In the (trap) suit wore Mr. Capone's chauffeur and one of his attorneys, William F. Waugh.

Out of the door climbed Mr. Capone, followed by Mr. Waugh. Only an estriding reporter or two knew at all that the party went in the dark-blue suit, dark-blue overcoat and gray hat was the notorious gang chief.

Across the sidewalk, up the steps and through the lobby hastened Mr. Capone, followed closely by the smaller Mr. Waugh, straining to keep up with the pace.

They entered the elevator and Capone called "Sixth floor."

"Well," said somebody who had trailed along, "you made that in a hurry."

That Corridor Is Jammed.

Arriving at the sixth floor, where Judge Wilkerson's courtroom is located, the hoodlum-look Bah and his lawyer found the corridor more or less jammed by a throng of early-bombers.

Through a narrow aisle, flanked along each side by deputy sheriffs, the two passed. Waugh spoke and tipped his hat to several young women—federal employees—who lingered in their office doorway. Capone tipped his fedora.

At the end of the crowd-lined corridor, just outside the doorway to the courtroom, a barricade had been erected. It was made of tables, leaving a lane between so narrow that only one person could pass at a time.

Capone and Waugh went through there unopposed, but the general public did not. A deputy stopped

those who had credentials of some sort following they had passed the side the courtroom.

Courtroom Clearly Guarded.

Up and down the stairs and about the courtroom walked representatives of nearly every law-enforcing agency in the city. There were federal deputy marshals, army, navy, police men, armed treasury guards, subpoena servers and city policemen. Their business was mostly to give John Public a polite but firm guide in the ribs and invite him to sleep morning.

There was even a deputy constable on hand. Somebody called Mr. Capone's attention to that. Capone didn't seem to like the ally very much.

"Oh, I don't suppose he's here looking for business," said the informant. Whereupon Capone laughed with the rest.

He's in Affable Mood.

Capone was in an extremely affable mood. He sat down in the courtroom and swapped quips and sallies and information—very little information—with a pack of reporters and federal men who swarmed about him. His only jewelry adornment was a flashy and expensive one—a platinum and diamond watch chain that stretched clear across the expansive bosom of his blue vest. It had large diamonds set in it about an inch apart.

Occasionally he interrupted his conversation to smile a greeting and shake hands with a reporter or federal officer or policeman acquaintance. He talked about the weather and this and that and touched upon politics, but divulged very little about himself.

"Lyle," he said once, "tried to make a campaign issue out of me, but the public answered him."

"How did you get up here, Al, by plane or train or boat?" he was asked.

"Oh, I just got here," he smiled.

Wasn't Sam Brown mean.
"No, I'm not going to sell my home in Florida," he said in reply to a question.

"I'm going back down there when I get through here. I like it there. I'm going to finish up all my business with the police and these fellows this time and get it over."

"I'm going to surrender myself to the first cop I meet outside the courtroom today when this business is over and let him serve that vagrancy warrant I've issued. I want to get that thing straightened up. I'm going down to the bureau and do it."

The presentation of a contempt citation grew out of Capone's failure to answer a federal grand jury summons in 1928. He sent word back from his Florida estate that he was too ill to appear, but the government expects to present a number of imported witnesses from Florida who will tell today how Al cavorted quite healthily among the palms.

May Occupy Cell

Next will come the arrest of Capone by the police on the long-standing vagrancy warrant, with the probability that he may occupy a cell at the detective bureau before the day is over until he furnishes bail.

Detectives William Drury and John Howe, the nemesis of hoodlums, were to be given the honor of arresting Capone on the "vag" warrant, with Lieut. Edward Birmingham assigned to be on hand so that Mr. Capone won't feel alighted at being seized by two mere detectives. Assistant District Attorney George E. Q. Johnson asked that Drury and Howe be allowed to serve the warrant, inasmuch as they are familiar with gamblers and might be able to spot other wanted parties among Mr. Capone's retinue.

The warrant will be served in the hallway outside Judge Wilkerson's courtroom as soon as Mr. Capone

has finished his business inside. He will then be taken downstairs, loaded into a squad car and taken to the detective bureau, where Drury and Howe will back him, lock him up in a cell and notify Chief of Detectives John Norton that one Mr. Capone is safely in tow. Then will come up the matter of taking Mr. Capone to jail and seeing about his release on bond.

Surprise Action Foreseen

A surprise was promised in the form of possible new action charging Al with conspiracy to evade the federal income tax laws, said to have been prepared for him by United States District Attorney George E. Q. Johnson and his assistants, Camrus Post, Jacob Grossman and Dwight Green. The latter three successfully prosecuted Capone's brother, Ralph; his first vice-president in charge of vice, Jake Gunk; and several other gangsters on the same counts.

Pat Roche, chief investigator of the state's attorney's office, was also expected to be present.

Receiving reports that Capone had returned over the week-end to hide out with Johnny Patton, the middle-aged "boy mayor" of Burnham, Judge Frank M. Padden of the Felony court asked Roche to find "Scarface" Al, but the prosecutors' men were unsuccessful.

SURRENDERS IN COURT



Al Capone. (The World photograph.)

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POLICE SEIZE AL CAPONE AT HIS U. S. HEARING

GANG RULER MAKES BOND AS 'VAG'

Picture on Page 1.

The United States government this afternoon rested its case against Al Capone, chief of Chicago's gangland, who appeared before Federal Judge James H. Wilkerson to show cause why he should not be held in contempt of court.

After a brief recess taken when the assistant district attorneys announced they had completed their case, the defense was to present its side.

SEIZED AS VAGRANT.

A few hours earlier, at the noon recess, Capone was seized by police bearing a "public enemy" vagrancy warrant for his arrest.

The man whose name is a synonym for gun terrorism throughout the world gave his occupation as "real estate dealer" when he was booked on the vagrancy charge. He gave bond and was rushed back to the Federal Building, guarded by three picked squads of detectives, in time for the afternoon session before Judge Wilkerson.

Capone pleaded not guilty to the charge of contempt, growing out of the government's contention that he filed false affidavits two years ago to avoid testifying before a federal grand jury which was investigating a Chicago Heights bootlegging conspiracy.

The contempt hearing, it was disclosed by the opening statements of prosecutors and defense attorneys, is to be another "gangland invalid" case, paralleling in some

Continued on Page 2, Column 1.

respects the recent courtroom episode of Terry Druggan. Capone contends that he was, as set forth in the affidavit, too ill to come to Chicago from his Winter home in Miami, Fla.

The government representatives announced that they had witnesses who would testify that he had not been too ill at that time to attend horse races and other public events at Miami.

Capone had just arisen from the counsel table where he was seated with his attorneys, when Judge Wilkerson adjourned court at noon, when Lieut. Edward Birmingham entered with a squad of detectives. The lieutenant told the gang king:

"Get your hat and coat."

Capone did so. He was pushed out of the courtroom. Charles Nagi, custodian of the Federal Building, was waiting with an operator on the freight elevator which runs to the basement of the building, occupied by the main postoffice.

With a dozen detectives and deputy United States marshals walking all around him, Capone was led to the elevator, taken to the basement and placed in a police squad car which was waiting in the tunnel under the building used by mail trucks.

There was a scene of wild confusion as he was led into the detective bureau a few minutes later. At windows and on fire escapes of a freight house across the street nearly a hundred girl employees screamed with excitement at the sight of him.

AL IS GREATLY AMUSED.

His entrance into the office of Chief of Detectives John Norton threw that place into a turmoil, with scores of policemen, newspapermen and photographers milling about. Capone grinned through the whole proceedings, apparently amused at the hubbub which his appearance created.

At the request of Chief Norton, he posed for the photographers, smiling. Michael Ahern, one of his attorneys, arrived then, and arranged with the detective squad to have the vagrancy warrant served immediately and the \$10,000 bond set by Judge John H. Lyle posted.

Capone was sent through the Philadelphia Bureau of Identification before he was released. It was the first time the Chicago police have had a chance to get a fresh photograph of him and check up his Portland measurements and fingerprints since he was released from the Philadelphia jail where he served a sentence for gun-toting.

The Martillon record showed that he is 5 feet 10 1/2 inches tall, weighs 265 pounds and is 32. He gave his residence as 1341 Frodo av.

BOND APPROVED.

As soon as Capone was tested, Attorney Ahern went before Judge Thomas Green, sitting in the Small Claims Court in the same building and obtained approval of a \$10,000 bond on which one Michael Schwegel had scheduled an apartment building at 487-41 N. Albany av. represented to be worth \$80,000.

Capone waited for his attorney in Chief Norton's inner office. While he was waiting, a policeman went to a nearby restaurant and got him his lunch. When he was released, the detective squads took him back to the Federal Building.

In his conversation with Chief Norton, Capone intimated he might quit his present life soon. He said:

"Every time they have a political campaign in this town somebody attacks me. I'm getting tired of the publicity. I might retire soon."

The chief asked:

"What do you mean, retire?"

Capone did not answer him. Of the charges made by Judge Lyle in his unsuccessful campaign for mayor, the underworld czar said:

"Well, I have no comment to make on the election, except that the people have spoken. This is the third time that certain individuals have sought to involve me as a campaign issue, and it is the third time that the voters have decided that I was only a campaign issue. I believe the public will wake up one of these days to the bunk and bores which has been built around me and my family."

NEWS ON COURTS.

What he had to say about the charges pending against him, the

First Page

sons stated, would be said in court. He said:

"I'm glad the courts are still functioning. I don't think the judiciary as a body will become hysterical."

Capone had gained weight since his last appearance in a Chicago court, more than a year ago. He wore the conventional garb of a prosperous business man—a blue suit and tie, black oxfords and white socks.

HEAVY JAM BUILDING.

Hundreds of curiosity seekers jammed the lobby and corridors of the Federal Building, but most of them were turned away when they sought admission to Judge Wilkerson's courtroom. A dozen deputy United States marshals and agents of the Department of Justice were in guard in the courtroom and the corridor leading to it, and every one who entered was searched for weapons.

ARM BARRICADE.

Outside the courtroom two desks were lined up in the corridor to form a barricade through which all spectators were compelled to pass in single file under the scrutiny of the federal agents.

The news caused a buzz of excited conversation in every office in the building. Girl clerks, wide-eyed, inquired:

"Has he come? Is he really in the building?"

Those who were unable to obtain admittance to the courtroom hung in a solid line over the railings on various floors, looking down into the lobby for a glimpse of the gang chieftain as he crossed it.

Capone drew up in front of the Adams st. entrance of the building, riding alone in the back seat of a big sedan. Members of his body-guard were nearby, however, it was reported. He leaped out and dashed in the door, past a crowd of waiting photographers and motion picture camera men.

Waiting in the courtroom, Capone

was asked about the judge again. He said:

"The difference between me is that he spent thousands of dollars trying to get into office, while I'm spending thousands to feed people."

The charge, made by Judge Lyle during the primary campaign, that he had contributed \$150,000 to the Thompson campaign chest Capone characterized as "foolish." He got into Chicago Friday, he said, refusing to say what means of transportation he used—he "just got here."

He added:

"The weather in Chicago is better than it was down in Florida."

As Capone spoke, he fingered an ornate watch chain strung across his vest. It was of platinum, set at inch-wide intervals with one carat diamonds. A ring set with a larger diamond was his only other jewelry.

He was asked about his sister, Mafalda, whose marriage recently to John Maritote was the occasion of a display of gangland magnificence. He replied:

"Oh, she got back from her honeymoon a long time ago."

Assistant District Attorneys Cassius Foght and Jacob I. Grossman appeared against him for the government.

READS 8-PAGE CHARGE.

Mr. Grossman read the eight-page charge, which is summarized thus:

A subpoena was issued for Capone December 5, 1922. He could not be found and the subpoena was returned. In February, 1923, another subpoena was issued and served on Capone at his Palm Island, Fla., home, February 27, ordering him to appear before the federal grand jury here March 12.

On March 9, 1923, an application was presented to the court for a postponement of Capone's appearance before the grand jury. Supporting the application presented by Capone's attorneys, was an affidavit from Dr. Kenneth Phillips containing statements which both he and Capone said were true.

These statements were that Capone's physical condition was weakened and his health in danger if he came to Chicago.

The charge recited that the affidavit from Dr. Phillips said that Capone was convalescing from a serious illness March 3, 1923, and that Dr. Phillips had been attending him continuously since January 15 of that year; that Capone was still under treatment March 3, 1923, suffering from bronchial pneumonia, with fluid flowing from his lungs. He had been, the affidavit con-

tained, according to the charge, confined to his bed all but ten days of the period during which he was under the doctor's care, and that it would be dangerous for Capone to leave the mild climate of Florida and come to Chicago, which might cause collapse of his health, maybe his death.

FALSE AFFIDAVIT.

Mr. Grossman said that by such application the government charges contempt of court, which caused Judge Wilkerson to ask if it was the prosecutor's contention that false affidavit constituted contempt of court. When Mr. Grossman replied affirmatively, Judge Wilkerson asked:

"Is it your position that every false affidavit presented to this court constitutes contempt?"

The prosecutor replied that he would take that up later. He went on to contend that Capone was not confined to his bed from sickness March 3, 1923; that he was in good health and could have come here to testify; that he was attending races and other sports and walking the streets of Miami.

He concluded with the statement:

"Capone's activities in Florida were well known. They were

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chronicled in the press. We will show through testimony that he was physically fit to come to Chicago."

MAKES DENIAL

The opening statement of Attorney Epstein was a direct denial of the prosecutor's closing remark. He said:

"The defense will prove beyond a reasonable doubt that Mr. Capone was, in January, 1929, suffering seriously from bronchial pneumonia; that he was confined to his bed, with a day and night nurse in attendance.

"We will show that a Dr. Light was in attendance upon him, and that Dr. Phillips was later called in consultation; that bronchial pneumonia is serious and that people who have it take a long time to recover; that he was in bed most of January and that it would have been seriously detrimental to his health to go to a climate different from that in which he had been living in Florida."

Attorney Epstein went on to assure the court that Capone had no intention to be in contempt when he filed his affidavit that he was too ill to appear, and that he did so on the advice of physicians. He

then related how, when Capone appeared after a 1,000 mile journey from Miami to Chicago, he appeared at the office of the district attorney, was told to return a week later, appeared before the grand jury as a witness and was dismissed by the grand jurors.

CALL FIRST WITNESS

The first witness, Charles W. Clarke, a special agent of the intelligence unit of the internal revenue bureau, stationed at Miami, was then called to the stand.

He was asked by Prosecutor Grossman if he saw Capone on February 27, 1929, and replied:

"Yes. I accompanied Deputy United States Marshal J. C. Cooper to Al Capone's residence on Palm Island at Miami, Fla., to serve a subpoena calling Capone to testify before the grand jury in Chicago.

"We called at the gate of the Palm Island residence and a man met us at the gate and said, 'What do you want?' Cooper said we desired to serve a subpoena on Capone. The man repeated his question, and then a man whom I later identified as Capone, who was sitting on the steps of the

Continued on Page 14, Column 1.

house, said to me, 'I am sorry. Capone is in bed.'"

ON INSIDE HOUSE

"We then walked into the house and Deputy Marshal J. C. Cooper and I stood in the hall for some time while we sat on a bench part. We were there for some minutes."

The examination proceeded as follows:

Q—How was Mr. Capone dressed?

A—Well, he had on a light pair of breeches, and I think a camel hair coat, a white silk shirt and light colored shoes.

Q—Did he look sick? A—(laughing)—Well, I didn't think so. He looked to me just as he does now.

Q—Did he look weak, or anemic?

MAKES OBJECTION

At that point Attorney Epstein jumped up with an objection, saying:

"If there's going to be sarcasm injected into this trial I object. This comedy has gone far enough."

Prosecutor Grossman assured the court that he had no intention of using sarcasm, and Judge Wilkerson overruled the objection and told him to continue questioning the witness.

The next witness was Ruth Gaskin, secretary to the county solicitor of Dade County (Miami) Fla. She was questioned as follows by Prosecutor Grossman:

Q—Were you present at a meeting at the solicitor's office? A—I was present and took notes.

Q—Who was there? A—A Mr. Taylor, a Mr. Goldstein, the sheriff, myself and Capone.

SEEMED IN GOOD HEALTH.

Q—Was the defendant in good or bad health? A—He appeared in good health.

Q—Do you see the defendant in the room? A—Yes, he appears to look the same.

The witness was cross-examined by Attorney Waugh:

Q—Don't you remember that he was told to report to the county solicitor's office the day before the meeting? A—I don't know anything about that.

John N. Corns, former policeman of Hialeah, Fla., was the next witness. Prosecutor Grossman questioned him as follows:

Q—Do you know Capone? A—Yes.

Q—On the second day of your duty at the Hialeah race track, did you see Capone? A—Yes. I was patrolling and I saw a big yellow car drive up. I stepped over to the ticket office and right after that Capone came up. I said, 'Hello, Al' and he gave me a \$10 bill and I walked away.

SAW HIM FREQUENTLY.

Q—What day was that? A—Either January 17 or 18.

Q—Did you see him after that? A—The next day. I saw him quite frequently except for one period around

Q—What is the longest space

during that period that you didn't see him? A—Four or five days.

Q—What was his appearance? A—He was smiling, he seemed to be in good spirits.

FIXES EXACT DATE.

Can you fix a date in March that you saw Capone at the track? A—Yes.

Q—When was it? A—March 8 or 9.

M. G. Wood, a police officer at the Hialeah race track, was the next witness. Mr. Grossman questioned him as follows:

Q—Were you a police officer at the race track in the Spring of 1929? A—Yes.

Q—What was your duty? A—I patrolled in front of the grandstand three days a week.

Q—Do you recall seeing Mr. Capone at the race track? A—Yes, I used to see him in one of the boxes.

Q—Do you know Mr. Capone? A—Not to speak to him.

POINTED OUT TO HIM.

Q—How did you know it was Mr. Capone? A—He was pointed out to me.

Q—Why was he pointed out to you?

The question was objected to by Attorney Epstein on the ground that it called for deduction on the part of the witness. The objection was sustained by Judge Wilker. The questioning continued:

Q—Do you recall about the time that you saw Capone at the race track? A—During the first and second weeks of January.

WITNESS CROSS-EXAMINED.

Cross-examination of the witness then was begun by Attorney Waugh, as follows:

Q—You said you saw Capone the

first or second week in January. Which week did you see him?

A—I'm not sure.

Q—As a matter of fact, it could have been the second, third or fourth week.

A—It might have been the fourth week.

Q—Didn't you have any conversation? A—No, sir.

At this juncture Attorney Epstein stood up and said:

"Was he thinner at that time?"

"Well, he wasn't as fleshy as now."

Then Wood left the stand.

The next witness called was W. R. Foster, former police officer in

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Hieleah. He was questioned by Prosecutor Grossman. The questioning proceeded as follows:

Q—Did you ever see the defendant, Alphonse Capone, at the race track during the season of 1929?

A—Yes, sir, nearly every day.

Q—Did you ever have a meeting with Capone when he was parking his car?

A—Yes.

Q—What was his appearance when you saw him? A—He seemed to be healthy.

The first witness at the afternoon court session was Edward Nirmaler, an airplane pilot living in

Miami. He was questioned by Prosecutor Grossman as follows:

Q—Did you ever see Al Capone in and about Miami? A—I have.

A—Did you ever take him on an airplane trip? A—Yes. One time I was flying with a commercial photographer at Miami who wanted to take pictures of the J. C. Penney estate.

The pilot went on to testify that on this flight, the photographer took pictures of Capone's home also. Several days later, Nirmaler added, the photographer asked him to take the pictures over to Capone and ask him if he wanted to buy them.

Nirmaler then testified that he took the pictures to Capone, about the middle of January, 1929, and found Capone lounging outside his home in a dressing gown. The next time he saw him, he said, was on February 2, when he took him for a plane ride to Hialeah and back.

Q—How was Capone's health at that time? A—He looked all right.

Q—Did he cough any? A—Well not that I remember.

On cross examination by Attorney Waugh, Nirmaler said the weather at the time Capone went riding with him was very pleasant.

THIS IS AL CAPONE'S BUSY DAY

CHICAGO EVENING AMERICAN, 8/25/35



Apparently unperturbed, Al Capone sits at the detective bureau in the photo at the left. He looks much more like a prosperous, solid business man of the middle class than the iron-banded tyrant of the underworld he is reputed to be. At the right is Capone before his ap-

pearance in federal court after charges of violation of law. Judge William Edwards has found Al Capone guilty of racketeering and has sentenced him to 30 years in prison. The sentence was handed by a report of detection.

CAPONE GIVES APPEAL BOND IN U. S. COURT

Appears in New Ensemble,
but Is Silent on 6-Month
Jail Term.

"Scarface Al" Capone, jailbird and brothelkeeper, appeared today in the courtroom of Federal Judge James H. Wilkerson where on Friday he was sentenced to six months in the county jail for contempt of court.

Capone was in court today for the purpose of making a supersedeas bond of \$5,000, to give him his freedom while William F. Waugh and Benjamin P. Epstein are taking his case to the United States Circuit Court of Appeals.

The No. 1 public enemy was escorted to the federal building by Louis William McCarthy and Louis Edward Birmingham and their squads. His appearance through the Adams street entrance excited no comment.

He Wears New Ensemble.

Capone was philosophical about his sentence, but would not comment on it in view of the appeal planned. He had a new ensemble for his court appearance today—green suit, green tie, gray spots and tan shoes of a light shade.

Judge Wilkerson entered the formal order of sentence today. The assignment of errors, alleging fourteen errors, was received by the court and permission given defense counsel to file an amended assignment of errors in ten days. The judge also granted a supersedeas, but wrote into the writ that it is to expire June 1 of this year unless extended by the Appellate court.

Assistant District Attorney Jacob I. Grossman, who prosecuted the Capone contempt case, pleaded for an early disposition of the case. The judge pointed out that the bill of exceptions is due within thirty days and said that he did not believe the Appellate court could extend the supersedeas.

One of the errors alleged is that the judge allowed the introduction of Capone's grand jury evidence. The judge said he was of the opinion the defense had agreed to its admission and Grossman produced a transcript of the record to show that no objection had been made.

Brugg-Lake Case Called.

The income-tax case of Terry Brugg-Lake was called.

CAPONE GIVES APPEAL BOND IN U. S. COURT

(Continued from First Page.)

Supreme court reversed the verdict and Robert E. Crowe was then state's attorney—a nol prosee was taken by the state. The murder charge was reinstated in the drive against public enemies.

Chief among the witnesses for the state is Sergt. James McBride, who was with Pflamme when the two hoodlums fought a gun battle with White and another hoodlum named Jimmy Johnston. Johnston was also slain in the battle.

Second Trial for White.

White was convicted of the Pflamme murder in 1926, served three years of a life sentence and then was released on an appeal when the original charge was found to have been improperly presented. A new indictment recently was voted against White in the campaign against public enemies.

Policeman James McBride, original chief state witness and companion of the slain officer when he was killed, was the subject of an attempted assassination while riding in a Maywood street car last November. Claude Maddox, "cirrus" gangster, was seized as one of his assailants. McBride has recovered and will again testify.

Gang Armorer Faces Court.

Peter Von Frantinus, long known as gangland's gun runner, went on trial today before Judge Justin F. McCarthy in the jury branch of the Municipal court charged with selling firearms without keeping a record of the sale.

The state will introduce as evidence two machine guns identified by ballistic efforts as the weapons that were used in the St. Valentine's Day massacre of gangsters. A third found in the Bent of Fred Burke, was evidence. It was that Coroner Heink Burke to Harry ("Gee") Capone convicted.

Give to the public the...
The Deputy District Attorney...
syndicate, was scheduled to appear before Judge Francis Barrett of South State street court on a public enemy vagrancy charge. The case was expected to go over because the prosecutors assigned to the vagrancy cases were busy with the White murder trial.

Volpe Deportation Warrant Issued.

The deportation warrant for Tony "Alto" Volpe, Capone gangster and public enemy No. 2, arrived at the local immigration office today from Washington.

Shirley D. Smith, immigration chief here, explained that the first step in the proceedings to send Volpe back to Italy was to obtain a passport from the Italian consul. If the consul wishes to determine that Volpe is an Italian subject the investigation may take three or four months. If he waives the investigation the proceeding usually takes four or five weeks. Volpe meanwhile will remain at liberty on a bond of \$10,000.

Volpe was born in the Argentine, immigration officials said, but his parents later returned to Italy and resumed their Italian allegiance.

O'Donnell Case Continued.

A perjury charge against Bernard O'Donnell, a member of the Klondike O'Donnell clan of bear hunters and labor racketeers, which has been pending since March 26, 1929, came up today before Judge Peter H. Behrman and was continued to March 26. When State's Attorney Swanson's attention was called to the fact that the case had been pending for nearly a year he called in his assistants and ordered them to be ready to take the case to trial on March 26.

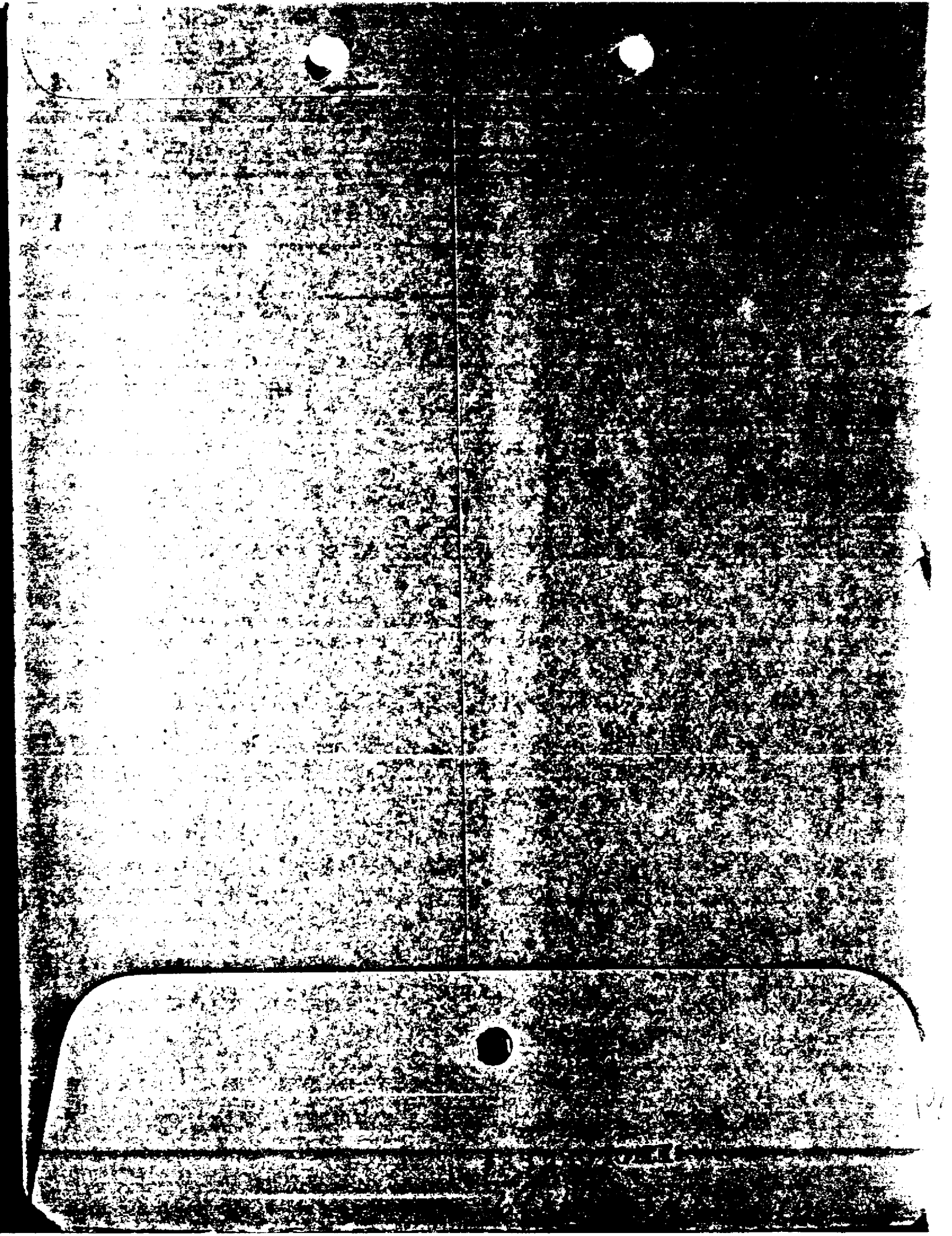
The perjury charge grew out of a gun-toting case against O'Donnell. When the case came up he presented a petition asking for return of the weapon, saying it was his and that the police had taken it from him unlawfully.

The petition was disallowed and when O'Donnell took the stand he denied the revolver was his.

212 N. Michigan
Broadway near Lake
Medicine and Law
G. A. C. Co.
Harry ("Gee") Capone convicted

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FOR ATTENTION OR ACTION AS INDICATED

Date

DIRECTOR ✓
MR. TOLSON Room 518
MR. APPEL Room 418
MR. BAUGHMAN Room 422
MR. EGAN Room 420
MR. HUGHES Room 418
INSPECTOR CLEGG
INSPECTOR CULLEN
INSPECTOR KEITH
MISS GANDY Room 326
MRS. SKILLMAN Room 318

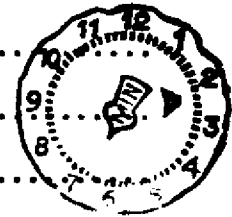
BUREAU FILE ROOM

DIVISION SEVEN

IDENTIFICATION DIVISION

PERSONNEL FILE ROOM

STENOGRAPHIC POOL MAR 22 1931



Amrah!
Well of all the lunks, this takes
the prize. It took me 2 years to get
him to try Capone & now *W.D.*
he looks in the sunlight of
the effort which he did
everything to avoid.
D. C. A.

HAROLD NATHAN
ROOM 318

CAPONE HEARS SENTENCE; POSTS BOND FOR APPEAL

U. S. Begins Tax Case Against Gambler.

(Picture on back page.)

Public enemies and less prominent hoodlums were concerned yesterday with the processes of the law, both state and federal. Those with legal difficulties ranged from Al Capone, public enemy No. 1, to Jerry O'Connor, loop gambler and race horse man, who is in trouble over his income taxes.



ROBERT NEELY.

Acting Collector of Internal Revenue Robert E. Neely filed a claim, claiming income taxes of \$270,000 for the years 1925, 1926, 1927, 1928, and 1929, on the property of O'Connor. For years O'Connor has maintained an elaborate gambling establishment in South Wabash avenue. He is under investigation by the intelligence unit of the revenue bureau, which handles criminal cases. Whether his will result in a criminal prosecution has not been ascertained.

Capone Appears for Sentence.

Al Capone appeared before Federal Judge Wilkerson for his formal sentence to six months in the county jail for contempt of court. He has posted a supersedeas bond of \$5,000 to permit an appeal. His counsel was allowed 30 days to file a bill of exceptions and the court stipulated that if the contempt case is not disposed of by June 1, when the supersedeas expires, he must go to the Circuit Court of Appeals if he wishes a continuance.

Capone again was escorted to and from the federal building by police squads under Lieut. William McCarthy and Lieut. Edward Birmingham, who protected him last week, during his trial, against possible assassins.

Druggan-Lake Cases Delayed.

The income tax evasion cases against Terry Druggan and Frankie Lake, the former beer partners, who have entered conditional pleas of guilty, were up in federal court yesterday for sentence, but each was continued until June 1 pending outcome of the appeals of Ralph Capone and State Representative Lawrence J. O'Brien. The beer dispensers requested the privilege of changing their pleas

as to felony counts if these appeals are successful.

Judge Francis Berrelli continued the vagrancy case against Harry Gunk, Capone vice monger, until March 15, with the understanding that it must be disposed of then. Gunk's attorneys insisted on an immediate trial, but the state's attorney's office was engaged with other matters.

State's Attorney Swanson ordered his assistants to be ready on March 15 to prosecute the perjury case against Bernard O'Donnell, brother of William (Klondike) and Myles O'Donnell, which was continued yesterday by Judge Peter M. Schwab for the eighth time on the request of the state. O'Donnell claimed ownership of a gun in a motion to quash his indictment for carrying concealed weapons, and disavowed ownership during his trial.

The case against Peter von Frank, sporting goods dealer, charged with selling machine guns without keeping records of the sales, was continued until March 15 by Judge Justin F. McCarthy, who ruled that a jury must hear it.

CHICAGO TRIBUNE

Tues., Mar. 3, 1931.



MAR 5 1931

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CONTEMPT CASE DECISION MAY BE GIVEN TODAY

CHICAGO TRIBUNE 2/27/31

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Gang Chief Fails to Take Stand.

A decision by Federal Judge Wilkerson determining whether Al Capone, public enemy No. 1, will go to prison for contempt of court is expected today at the conclusion of the gang leader's trial. The government's closing argument was begun yesterday afternoon by Assistant District Attorney Jacob Grossman and it was believed that the argument of other counsel would be finished this morning. Capone had indicated that he thought he could assist his own defense by taking the stand, but when his attorneys closed the presentation of their evidence he had not been called as a witness. This was taken by court attachés as an indication that his lawyers sought to save him from the cross-examination that had weakened other defense witnesses.

Doctor Has Bad Day.

One of these was Dr. Kenneth Phillips, Capone's Florida physician, who put in a bad day under questioning by the prosecution about the affidavit on the gang chief's illness out of which the two year old case grew.

Judge Wilkerson assisted Prosecutor Grossman in a withering cross-examination of Dr. Phillips, which ended in the physician's admission that many of the statements in the affidavit were false. Capone, on the plea of illness, gained a stay from March 12 to March 20 on a subpoena to appear before a federal grand jury in Chicago in 1929.

Dr. Phillips admitted that the affidavit had been dictated by Capone's Miami lawyer and that he had only scanned it hastily before signing it.

On the other hand, Capone's nurses who attended him night and day during his attack of pneumonia in January, 1929, could not be swayed by cross-examination from their testimony that he was a sick man, and that he did not leave his Miami residence on the 17th, 18th, or 19th of January, when, according to the testimony of three policemen, he attended the Kialak race.

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Felony Guard Continued.

novelty of Capone's being in town and on trial had somewhat waned yesterday, the second day of the hearing, and fewer curiosity seekers flocked to the federal building. But the police motor escort was still in attendance, accompanying the respondent on his trips from the Lexington hotel to the federal building and back. The gangster used a high powered automobile for the first trip. With him rode Philip D'Andrea, well known hoodlum, who accompanied Capone on his airplane trip from Miami to Miami when Capone was supposedly "confined in bed."

Capone was scheduled to be arraigned in Felony court before Judge Frank M. Padden yesterday on the vagrancy charge pending against him. His counsel, Attorney Michael Ahern, informed Judge Padden that the gangster was on trial in federal court.

"Well, he can't be in two places at once," said Judge Padden, and continued the case until March 4.

Nurse Tells of Illness.

Miss Nora Hawkins, now attached to the Dade county hospital at Miami, was the first nurse called on Capone's behalf by Attorney W. F. Waugh. She said she was a graduate of the Rhode Island hospital at Providence.

Q.—When did you first see Capone?

A.—When I was called in to attend him by Dr. Phillips. To the best of my recollection it was in the second week of January.

Q.—How did you find him? A.—I found him very uncomfortable. He had a temperature of 104 and a high pulse rate. He was coughing hard enough to shake your head off. He also complained of pains in his chest.

Attended Him Seven Nights.

Q.—How long were you there? A.—Between seven and ten nights.

Q.—Did Capone at any time leave his bed while you were there? A.—Absolutely not.

Q.—So far as you know, was he out on the 17th, 18th, or 19th of January?

A.—So far as I know, he was not. I was only there nights.

Q.—In your opinion, and taking his condition into consideration, would it have been possible for him to attend the horse races on the 17th, 18th, or 19th of January? A.—Absolutely not.

Miss Hawkins explained that she kept daily charts while attending her patient, but that she tore them up shortly afterwards when she went into institution work.

His Day Nurse Testifies.

Miss Ann Fagan, a red haired nurse who said she did her graduate work at the Virginia hospital, Richmond, and had six months experience at the Rochester Institute, New York, attending returned soldiers suffering

The Evening Star, Washington, D.C., March 3, 1931

ONE-MAN DRIVE IN CHICAGO HAS GANGS QUAKING WITH FEAR

U. S. Prosecutor's Tax Law Thrusts Thin Ranks of "the Immune" Among 26 Public Enemies.

Special Dispatch to The Star.

CHICAGO, March 3.—One man, rather slight of stature, modest and soft-spoken in manner, suggesting the professor rather than the prosecutor; an earnest churchman, but fearless, determined and intensely thorough, had the powerful potentates of the underworld quaking yesterday.

He is George E. Q. Johnson, Federal district attorney for the northern district of Illinois. Seven times Mr. Johnson has made sallies against the men who sit with immunity on gangland thrones and seven times he has knocked them off. Where 8,000 Chicago police and detectives, a whole phalanx of prohibition agents, vigilante organizations of citizens and local prosecutors have been largely ineffective, this official has scored with results.

Consequently the ranks of the immune among Chicago's 26 public enemies are thinning perceptibly—Ralph Capone, Jake Guzik, "Mope" Volpe, Frank Nitti, Terry Druggan and Frankie Lake tumbling one after another.

Tax Charges Turn Trick.

And then "Scarface Al" Capone himself—head of the \$100,000,000 booze, vice and gambling syndicate which long has defied the law with immunity—was nicked. The procession of gambling house operators of the Capone organization entering the grand jury chambers suggests that Mr. Johnson is soon to be ready to strike hard at this principal underworld figure with an indictment for conspiracy to violate the Federal income tax laws. His six months' sentence for contempt of court is rumored to be just a nick and nothing more.

Twenty months of thought on the problem of dealing with rich and powerful gangsters provided the Federal district attorney with the weapon which is turning the trick—indictment for conspiracy to violate the United States income tax laws in failing to pay taxes on huge underworld profits.

When he decided to strike, Mr. Johnson and his aids were so sure of their ground that they hit with precision and such sureness that gangs hold him in fear. All their money and all their men have finally proved helpless.

Ralph, brother of Al Capone, was shown to have had \$1,871,000 in profits from gambling alone in three years. He was the first convicted and drew three years, with the case now on appeal. Then came Nitti, who pleaded guilty when two politicians bucked the game and lost. He now is serving 18 months.

Jake Guzik, with \$1,049,000 profit from gambling in three years, fought the case and drew five years. After that Terry Druggan and Frankie Lake, with a million in beer profits at stake, pleaded guilty.

Volpe, No. 2 among Chicago gangsters, has just been ordered deported for violation of the immigration laws.

What all this means is explained by Mr. Johnson.

Ends Gangs' Immunity.

"Conviction is important," he said, "because when these gangsters come out of prison they will not be able to count on old loyalties. Their immunity—or gangdom's belief in their immunity—is gone. That was their stock in trade. There is no friendship among hoodlums. There is no loyalty except the loyalty born of their common purpose. That purpose is easy money. Take their money away and they dry up like a weed that has been cut down."

The Federal prosecutor finds that the most disheartening thing is the way supposedly respectable citizens have come forward to front for the gangs.

"We know that gangs make contributions to factions of political parties," he explained. "The factions pay back in privilege, and privilege is immunity to violate the law sold to organized criminals by public officials."

Mr. Johnson has just been reappointed district attorney with four more years to work on the gang leaders.

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Mr. Croftman was examined the witness at this point.

Q.—You talked with Mr. Waugh before leaving Florida to come here and testify, did you not? A.—Yes.

Q.—You talked with Mr. Clarke, the government investigator, didn't you? A.—Yes.

Q.—You didn't remember dates and didn't possess any definite recollection when you talked to Mr. Clarke, did you? A.—I don't have any definite recollection now.

Dr. Phillips, who testified for the defense on Wednesday, declared on cross-examination yesterday that he was 32 years old, a graduate of the University of Chicago and of Rush Medical college, receiving his diploma in 1926 and going to Miami shortly thereafter.

Q.—Then the statement in your affidavit that "you had been "actively and continuously engaged in the practice of medicine and surgery for four years in Chicago" was not true, was it? A.—No, I only practiced here as an interne.

Q. [by the court].—How long were you an interne in Chicago? A.—One year.

Q. [by the court].—Did you have any other practice here? A.—No.

Q.—Did you know Capone in Chicago? A.—I had seen him several times.

Saw Capone at City Hall.

Q.—Professionally? A.—No, I think it was around the city hall that I saw him. I didn't have any personal acquaintance with him.

Q.—Did you treat any other members of Capone's family in Florida, or friends of his? A.—Yes, I treated his wife, his boy, Sonny, his sister-in-law, whose name I don't recall, and a worker at his bathhouse.

Q.—Any others? A.—Yes, I treated his brother-in-law, Coughlin, I believe his name was, Dennis Coughlin.

Q.—What was your fee? A.—\$2,000, but that took care of several consultants I called in; he was injured in an automobile accident. This fee was disputed and only half of it was paid, when we settled out of court.

Q.—How much was Capone's bill?

**MANDE
BROTHER
MEN'S SHO**

Restricted by others. Police have not high rate. As suffering from general cephalic headache following "sexual" abuse. Not serious, but needs change of treatment. Please advise them of same. (Signed) KENNETH PATTERSON.

"Bath Medical Commission."

According to testimony, the reason for "ethics" was based on a dis-agreement with a Dr. Light, supposed to be a first physician at Miami, as to the type of treatment that should be applied.

Begins Final Arguments.

Beginning his final arguments in the court, Mr. Grossman declared that the testimony was "rotten" and that he intended to "bring out" the "rottenness" of including Dr. Capone in the indictment. Dr. Pulling to the Grand Jury.

The prosecutor's argument was abruptly terminated when a defendant arose as to whether the commission granted Capone on the addvise was by consent of Assistant United States Attorney Daniel Anderson. Judge Wilkerson said he had "not" understood Anderson's testimony of the previous day, and asked for a transcript for the resumption of the trial this morning.

Mr. Grossman admitted that Anderson consented to the continuance, but

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declared that the segment was based on the affidavit, which said that the trip to Chicago would endanger Capone's life.

Capone Fails to Take Stand

When the defense rested without putting Capone on the stand, the prosecution called Dr. Charles Spencer Williams, professor of internal medicine at the University of Illinois, to rebut Dr. Phillips' testimony.

Q.—How long would it require a man, after suffering conditions such as you have heard here, to recover sufficiently to go out doors? A.—That depends upon what he became and what.

Q.—When Capone left Jan. 28, by their own testimony, A.—The ordinary time would be about fifteen days.

Q.—In your opinion, would coming to Chicago in March have endangered Capone's health? A.—That's a matter of judgment. If he was out and around, he wouldn't have been any worse off in Chicago than down there.

DENIES LARGE SALES

A statement issued yesterday by Robert Isham Randolph, president of the Association of Commerce, was called to the attention of Capone during a court recess. Col. Randolph charged that \$5,000,000 worth of beer are sold daily in Chicago and that the profits therefrom to the Capone gang are \$2,000,000 a week.

"Well, Col. Randolph ought to know, he's head of the Secret Six," said Capone. "But if he has that information, why doesn't he turn it over to the government?"

"Of course that's absurd. Why, I

don't believe there is that much beer in the United States."

Capone established himself for publicity among young women yesterday. A girl reporter tipped blushing up to him as he sat in the gallery awaiting the opening of court.

Capone arose when the young woman introduced herself and bowed low.

Call Girl Reporter Bewildered

"I wanted to ask you a question, but I am so flustered I can't remember what it was," she said. Capone smiled indulgently.

"Q. I remember, I wanted to ask you what you think of the American girl."

"Why, I think you're beautiful," said Capone.

A secretary from the judge's chamber entered the court room with an announcement that "London is on the wire."

"I'm sorry, lady, but there's nobody in London that would be calling me, not even King George," said Capone.

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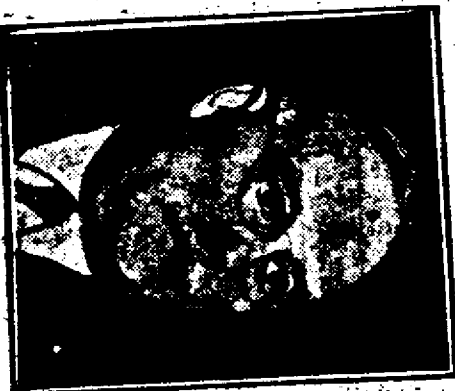
ENCLOSURE

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DOCTORS AND NURSES CROWD CAPONE OUT OF LIMELIGHT



Left to right: Miss Ann Fagan, nurse; Dr. Kenneth Phillips, Al Capone's Florida physician, and Miss
Hawkins, another of Capone's nurses.
[TRAILER'S PHOTO.]



Dr. Charles Spencer Williams,
who testified for the state as an
expert witness.
[TRAILER'S PHOTO.]



Dr. David Quinn, Capone's
case physician, who visited Capone
at Miami, Fla.
[TRAILER'S PHOTO.]

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J. S. SCORES AS CONTEMPT CASE NEARS FINISH

Nurses Call Gang Chief Sick Man.

The contempt of court case against J. Edgar Capone, public enemy No. 1, reached the closing argument stage yesterday after a session which was marked by the breaking down of the affidavit made by Dr. Kenneth Phillips, the gang chief's Florida physician, out of which the two year old case grew.

Federal Judge Wilkerson assisted Prosecutor Jacob Grossman in a withering cross examination of Dr. Phillips, which ended in the physician's admission that many of the statements in the affidavit were false. Capone, on the plea of illness, gained a stay from March 12 to March 20 on a subpoena to appear before a federal grand jury in Chicago in 1922.

Fall to Shake Nurses.

On the other hand, Capone's nurses who attended him night and day during his attack of pneumonia in January, 1922, could not be swayed by cross examination from their testimony that he was a sick man, and that he did not leave his Miami residence on the 17th, 18th, or 19th of January, when, according to the testimony of three policemen, he attended the Miami race.

The novelty of Capone's being in town and on trial had somewhat waned yesterday, the second day of



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he heard, and yet, certainly, he
is known to the public. But the
police officer who was at
the attendance, accompanying the re-
spondent on his trip from the Lon-
gton hotel to the federal building
and back. The gangster used a high-
powered automobile for the first trip.
With him rode Philip D'Andrea, well-
known hoodlum, who accompanied Ca-
pone on his airplane trip from Miami
to Rimini when Capone was supposed-
ly "confined in bed."

Delay on Vagrancy Charge

Capone was scheduled to be ap-
peared in Federal court before Judge
Frank M. Padden yesterday on the
vagrancy charge pending against him.
His counsel, Attorney Michael Ahern,
informed the court that the gangster
was on trial in federal court.

"Well, he can't be in two places at
once," said Judge Padden, and con-
tinued the case until March 4.

Miss Nora Hawkins, now attached
to the Dade county hospital at Miami,
was the first nurse called on Capone's
behalf by Attorney W. E. Waugh.
She said she was a graduate of the
Rhode Island hospital at Providence.

Q.—When did you first see Capone?

A.—When I was called in to attend
him by Dr. Phillips. To the best of
my recollection it was in the second
week of January.

Q.—How did you find him? A.—I
found him very uncomfortable. He
had a temperature of 104 and a high
pulse rate. He was coughing hard
enough to shake your head off. He
also complained of pains in his chest.

Attended Him Seven Nights

Q.—How long were you there? A.—
Between seven and ten nights.

Q.—Did Capone at any time leave
his bed while you were there? A.—
Absolutely not.

Q.—So far as you know, was he off
on the 17th, 18th, or 19th of January?
A.—So far as I know, he was not. I
was only there nights.

Q.—In your opinion, and taking his
condition into consideration, would it
have been possible for him to attend
the horse races on the 17th, 18th, or
19th of January? A.—Absolutely not.

Miss Hawkins explained that she
kept daily charts while attending her
patient, but that she tore them up
shortly afterwards when she went
into institution work.

His Day Nurse Testifies

Miss Anne Fagan, a red haired
nurse who said she did her graduate
work at the Virginia hospital, Rich-
mond, and had six months experience
at the Rockefeller Institute, New York,
attending returned soldiers suffering
with respiratory diseases in 1918, was
then called by Defense Attorney Ben-
jamin P. Epstein.

Miss Fagan stated that she was
called to attend Capone in the day
time, on Jan. 4, to the best of her
recollection.

Q.—Where did you first see Capone?
A.—I saw him then. He was in bed
and had been for two days. He was
complaining with pains in the chest,
coughing incessantly, and had a tem-
perature of about 104.

Q.—How long did you remain there
as day nurse? A.—About two weeks
or longer.

Q.—During that time, did Capone
ever leave the house? A.—No.

Q.—Did he get out of his bed?
A.—No.

Q.—Was his condition such that it

would have been possible for him to attend the races on the 17th, 18th, or 19th of January? A.—No, he had a high fever.

Q.—You never left the house without reporting to Miss Hawkins, and he never left without reporting to you, is that right? A.—That's correct.

C. E. Cross Examines Her.

Mr. Grossman cross examined the witness at this point.

Q.—You talked with Mr. Wagoner before leaving Florida to come here and testify, did you not? A.—Yes.

Q.—You talked with Mr. Clarke, the government investigator, didn't you? A.—Yes.

Q.—You didn't remember dates and didn't possess any definite recollection when you talked to Mr. Clarke, did you? A.—I don't have any definite recollection now.

Dr. Phillips on Stand.

Dr. Phillips, who testified for the defense on Wednesday, declared on cross examination that he was 31 years old, a graduate of the University of Chicago and of Rush Medical College, receiving his diploma in 1926 and going to Miami shortly thereafter.

Q.—Then the statement in your affidavit that you had been "actively and continuously engaged in the practice of medicine and surgery for four years in Chicago" was not true, was it? A.—No, I only practiced here as an interne.

Q. [by the court].—How long were you an interne in Chicago? A.—One year.

Q. [by the court].—Did you have any other practice here? A.—No.

Q.—Did you know Capone in Chicago? A.—I had seen him several times.

Saw Capone at City Hall.

Q.—Professionally? A.—No, I think I was around the city hall that I saw him. I didn't have any personal acquaintance with him.

Q.—Did you treat any other members of Capone's family in Florida, or friends of his? A.—Yes, I treated his wife, his boy, Sonny, his sister-in-law, whose name I don't recall, and a worker at his bouthouse.

Q.—Any others? A.—Yes, I treated his brother-in-law, Coughlin. I believe his name was, Dennis Coughlin.

Q.—What was your fee? A.—\$2,000, but that took care of several consultants I called in; he was injured in an automobile accident. This fee was disputed and only half of it was paid, when we settled out of court.

Capone's Bill Is \$300.

Q.—How much was Capone's bill? A.—I don't recall, somewhere around \$300 or \$400.

Q.—You testified you were called to Capone's house on the 13th of January. How often did you visit him after that? A.—Three times a day the first week, twice a day the second week, and after that he began to improve, so I didn't see him every day.

Q.—Now, how long was he confined to bed, and by that I mean he had not going to the horse races? A.—Close on to three weeks or a little over.

Q.—That is after you came there? A.—No, that is from the time he was taken ill.

What you got on the table, after
A—Yes.

Mr. Williamson took up the question at this point.

Q—Let me be sure I understand you. You went there on the 13th. You say he was in bed three weeks?

A—Yes, or a little longer.

Q—Airplane, Ride Possible.

Q—Three weeks or more. That would be up to Feb. 4. What is your professional opinion as to whether or not this man was in such physical condition that he could have taken an airplane trip, going 60 miles each way, on Feb. 2? [This testimony had been given by Capone's pilot.] A—I think it was possible for him to do it, but it was very inadvisable.

Q—How could he do that if he was in bed all the time? A—He was not in bed, I don't suppose, up until that time.

Q—Well, three weeks; I want to be fair about this. Now three weeks from Jan. 13 would be Feb. 4. Now you're obliged to correct your statement, aren't you, that he was sick in bed for three weeks if he took that trip on the 20 of February? A—I have to make it approximately, because I really cannot remember exactly, but I think it was about that length of time.

Q—Ride's Effect on Health.

Q—All right, how about a man who has been threatened with pneumonia making an airplane trip going 60 miles an hour, 60 miles in each direction?

A—Your honor, I think it all depends on two big factors, maybe more. In the first place, where he was sitting in the plane [an open craft] and whether he was exposed to the draft and wind. In the second place, it depends on the kind of day it was, whether it was stormy and damp, or warm and sunshiny like the days we have.

Q—Are you sure that you did not exaggerate the seriousness of this man's condition? A—Your honor, as sure as I am sitting here.

Q—Attacks "In Bed" Statement.

Mr. Grossman resumed at this point, attacking the statement in Dr. [unclear] that Capone had been confined to his home for ten weeks and had only been out of bed ten days when the affidavit was sent to Chicago, under date of March 5.

Q—Now by confined to bed, as you used that expression in this affidavit, you do not mean in bed do you?

A—No, I cannot say that I do.

Q—And by confined to bed you might mean taking airplane trips?

A—I would hardly say that.

Q—Steamer trips? A—No, not that.

Q—You might mean going to the races? A—It could mean that.

SHERIFF SEIZES SLOT MACHINES IN ROADHOUSES

Dixon, Ill., Feb. 28.—[Special.]—In a county-wide raid, F. A. Richardson, sheriff of Lee county, seized several auto loads of jack pot and money slot machines last night and this morning. All roadhouses and amusement places about Dixon and in Amboy and sub-let business houses were visited by the officers.

State's Attorney Mark C. Keller ordered the raids when complaints were received that charged that minors and children were allowed to play the machines. Money found in the gambling machines will be turned over to the Dixon welfare committee to use for

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Clippings

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Capone Defense Rests In Contempt Trial: Al Avoids Testifying

**Gangster's Doctor Admits
Error in Affidavit for
Evidence.**

POLICE ON GUARD

"Scarface Al" Capone's trial on contempt charges before Federal Judge James H. Wilkerson neared its close when the defense rested its case abruptly this afternoon.

Earlier in the day Capone had told newspaper men that he planned to take the stand. During the noon recess, his attorneys, William F. Waugh and Benjamin P. Epstein, were said to have discussed the possibility that the prosecution, with Capone on the stand, might have wandered far afield in its questioning and that Capone might have done himself generally more harm than he could do good in today's specific case.

Assistant District Attorneys Jacob I. Grossman and Cassius P. Felt called Dr. Charles E. Williamson, a member of the faculty of the college of medicine of the University of Illinois, to testify as to the ordinary course of disease in pneumonia and bronchial cases.

Nurse Is Witness

Miss Ann Fagan, a nurse who attended Capone during his illness, testified that on Jan. 17, 18 and 19—days in 1929 on which government witnesses testified they saw Capone at a race track—Capone was ill in bed with a temperature that hovered about 104 degrees.

Mr. Grossman, in cross-examination, forced an admission that she was uncertain of the dates between which she had been in attendance on the gang boss.

Closing arguments were expected following the completion of Dr. Williamson's testimony.

Indications were that Judge Wilkerson would reserve his decision until he had an opportunity to review the testimony of witnesses in the case.

he had an opportunity to observe the
proceedings of evidence in the case.
The court, however, did not allow him
to stand in the public building.
During Michael Smith's case before
Judge Frank M. Tamm in Federal
court it was that the public enemy
magistrate should be continued for a
week because of the necessity of the
case's appearing in Federal court.
The magistrate case was set for
March 1.

A Detective Bureau agent and the
judge and brotherhood by ap-
pointment at 15th street and Wisconsin
avenue and conveyed his car to the
Federal building. Phil D'Andrea, who
is usually found cluttering up the of-
fice of City Sealer Dan Herricks in
the city hall, rode with Capone in the
car, which was piloted by a Negro
 chauffeur.

Crowds Ahead Today.

Apparently every one shook the
Federal building who shook to see
Capone saw him yesterday, so there
was no milling crowd when Capone
stepped in through the Adams street
entrance.

The same precautions taken yester-
day were again in evidence today.

Capone was in affable mood. News-
paper men surrounded him as he ap-
peared in Judge Wilkerson's court-

(Continued on Fourth Page.)

not for

US GATHER FOR CLIMAX

CAPONE
CASE;
WITNES



...the gangster yesterday. This was also to "Capone," said... a vagrant... a gray of... grime... saying the...

...with... a girl reporter... fashion... or twice, she... across a... fashion.

"I was supposed... said she, what it was."

"Capone stood... 'Oh, I know... 'What do you t... say?'"

"I think you're... The girl... Capone told r... to take t... probably... he sa...

Dr. Kenneth... who mac... that Capon... to Chicago in... jury summons... to be questio... called yesterda... illness in Jan... 1929, the same... a dozen govern... seeing Capone... plane trips and... Capone's plea... case for postpo... eral grand jury... brought on the... court proceedin...

Assistant Dis... man subjected... scathing cross... an admission of... inaccuracy in t... physician sent t...

Cross-Ex... Mr. Grossma... day's and proc...

"I call your... statement in t... been actively e... of medicine in... months and I... that in Chicago... then, is it?"

Judge Wilker... asked:

"How long di... be?"

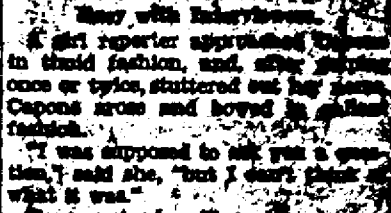
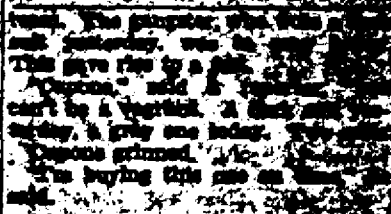
...served only...

...reply... judge ne... med.

...down outside the federal building as growing night to catch... at Karpis ("Scarface")... A cordon of mounted police was... to keep order and to keep Karpis in the street for traffic. Below... Kenneth Phillips, who... Karpis and... who is charged with... before... and the... to an... Judge James H... charged...

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CARONE RE-OPEN CASE; AVOID WITNESS STAND



"Oh, I know," said the girl reporter. "What do you think of the American girl?"

"I think you're beautiful," said Osipone. The girl retired to the press box.

Osipone told newspaper men he expected to take the stand.

"It's probably go on as the best witness," he said.

Dr. Kenneth Phillips, Illinois physician who made affidavit two years ago that O'Ryan was too ill to come to Chicago in response to a grand jury summons, was the first witness to be questioned today. He was called yesterday to tell of O'Ryan's illness in January and February.

Capone's plea of illness as an excuse for postponing a visit to the federal grand jury here two years ago brought on the present conduct of court proceedings.

man subjected Dr. Phillips to a scathing cross-examination and won an admission early that there was an inaccuracy in the affidavit which the physician sent the federal grand jury.

Cross-Examined Doctor.
Mr. Grossman picked up the affidavit and proceeded:
"I call your attention to this

statement in the affidavit: "I have been actively engaged in the practice of medicine in Miami for eighteen months and for four years before that in Chicago." That is not accurate, is it?" "I intended to be approximate," the doctor said.

How long did you serve in the military?

What do you think when you
and that he had been there and
of it. — I was astonished, be-
I had heard that they were

[illegible]

On Jan. 17, 1962, he was sick enough to be hospitalized and he had gotten out of bed. A doctor knew whether he would have been in a dangerous condition.

Q.—What was the crisis? A.—He did not have a crisis.

Q.—You were inaccurate as to the date in being "And it was really thirteen or three weeks." A.—Yes.

—James Williamson asked:

Q.—Was the defendant in bed all the time the nurses were there? A.—Yes.

Q—Did you think at the time that it was really dangerous for Mr. Adams to go to Chicago? A—Yes, I thought it might mean a relapse and your death to go to a cold country.

Q—As to the affidavit, you said it was written in the office of Attorney

Q—And it was written in the language of Stokes and dictated by Stokes? A—Yes.

Family Physician Talks

Dr. David Collins followed Dr. Phillips to the stand. Dr. Othello said he had been the Caspore family physician for eight years. Dr. Collins has been in the Innislight before, once for treating the wounds of a soldier named Martin Durkin, the son of a local farmer, when he testified that he had shot him for track work. Dr. Collins said that he had been in the Innislight before, once for treating the wounds of a soldier named Martin Durkin, the son of a local farmer, when he testified that he had shot him for track work.

U. S. CONTEMPT

(Continued from First Page)

The testimony of Dr. Phillips will decide the facts on the testimony of Dr. Owens and the two nurses who cared for Capone.

Calls Statement False

"The respondent was out of bed only ten days past, according to the affidavit. That statement is glaringly false. The result was that short extension was granted."

"But I think we make the point when we lay stress on the inconvenience, if any, to which the United States was subjected or that Capone was willing to come any time after. He pointed out in his letter in which he said he did not wish to be in contempt."

"The point in this case is that there has been a system established for the administration of justice. The court is part of that machine. It deals with litigants, jurors and others in only one way, through the processes of the court and they are not to be flouted. It is the duty of all to deal honestly and fairly with the court. When an attorney wishes the court to take action the court is entitled to full disclosure of the facts."

"Here we have an affidavit which says the defendant has been out of bed ten days. It must have been known by those about him that he was out much longer than that. The situation would be the same if a continuance was granted for some other reason. The point is: From the record in this case there is nothing the court can do but find the defendant guilty."

Grossman Asks Conviction

Assistant District Attorney Grossman was finishing the first of the government's closing arguments, contending that Capone should be found guilty of contempt of court for taking refuge behind a false plea of illness when he was summoned to appear two years ago before a federal grand jury here.

"It seems to me," said Mr. Grossman, at one point, "that I don't need to review all this testimony, that the court has listened carefully and—"

spoke the judge: "Degree of punishment" he determined by whether defendant just wanted to hang around jury or whether he was going to get out of the court."

who had been cheering at a great rate, stopped his jaw clapping and glanced nervously at the courtroom.

Mr. Grossman continued his argument: "I worked to bring that matter."

He cited the famous Harry Woodhouse case, in which the millionaire oil man was sent to a Washington (D. C.) workhouse for setting detectives to trail jurors in a criminal case growing out of the Teapot Dome scandal.

New Court Regularly Requested

"That sort of thing," he said, "angers the dignity of the courts before the people. That tendency should be considered. If a person can fail to appear and can submit false affidavits to postpone a hearing and come when he gets ready, it endangers the power and dignity of the court."

He referred to the testimony of Dr. Kenneth Phillips, Miami physician, who treated Capone during his illness and who admitted to court that there was error in the affidavit which he sent to Chicago to support Capone's plea that he was too ill to appear before the jury. "I am not,"

"Capone himself," said the prosecutor, "didn't consider himself seriously ill or the subject of self-protection. He was never alone taking an airplane ride. Six weeks after that time he found it necessary to consult a doctor when he was

in bed. He had no intention of going to court. He was too ill to go."

He was dangerously ill, the witness said. David Owens, Chicago physician who went to Miami, Fla., in response to a call from the family of the time Capone was ill would have stayed down there."

Mr. Grossman cited several pertinent cases which he said had elements similar to those in the Capone case.

The judge again interrupted. "The situation is the same," he said, referring to Grossman's argument, "as if a man said he was too sick to serve on a grand jury and then developed there was no reason why he could not serve. There's no doubt but that such a person could be held in contempt."

Grossman took up the same line of argument.

"It doesn't matter," the judge observed, "whether such a person was excused temporarily or permanently. It is the act that counts."

Grossman's final sentence was: "The court's action then and now will determine if such acts are to be condoned or encouraged."

Capone, still in good spirits, arrived this morning at the federal building attended by his customary police guard. A letter, addressed to him at the federal building, was given him by Deputy Marshal Joseph O'Neill.

A reporter remarked about Capone's "Jan mail."

JUDGE WILKERSON'S OPINION RENDERED IN CAPOONE CASE

The text of Judge Wilkerson's opinion in the Capone case follows:

"The respondent was served with a subpoena from this court requiring him to appear before the grand jury of March 12, 1929, at 10 a. m. On the 11th of March he entered his appearance in this court, submitted himself to the jurisdiction of the court, and made an application to the court to postpone his appearance in response to the subpoena until such time as might be directed by the order of the court. In connection with the petition made by express reference there was submitted to the court an affidavit executed in Florida and sent by the respondent to Chicago."

"The affidavit was that of a doctor named Phillips. The affidavit stated that he was examining with the respondent, that he had been attending him professionally since the 12th of January; that the respondent was then under a professional treatment, and from January 12, 1929, respondent had been suffering from broncho-pneumonia pleurisy with effusion of fluid into the chest cavity, and for six weeks had been confined to his bed at his home on Palm Island, Fla., and had been out of his bed only for ten days last past; that he had not fully recovered from the disease, and that in the professional opinion of the affiant, his physical condition was such that it would be dangerous for him to leave the safe climate of southern Florida and go to Chicago, and that to do so would imperil the safety of the respondent, and there would be a very grave risk of relapse which might result in his death from recurrent pneumonia; that the doctor advised against requiring respondent to go from Florida to Chicago; and that I would be inconsistent with the personal safety of the respondent to go to Chicago; that the opinion expressed by affiant was corroborated by three professional consultants of the city of Miami, Dr. Thawley, Dr. Maxwell and Dr. Fawcett, all of whom only be reached by addressing them at 123 Broadway Avenue in the city of Miami."

Quoted in Wilkerson's opinion.

After as to the affidavit the judge stated that it was executed in the office of a lawyer; that it was signed by the lawyer's clerk, and that the lawyer had the United States marshal's office and counsel for the respondent, it appeared that the

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